

NAVAL POSTGRADUATE SCHOOL

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THESIS

FOREIGN MILITARY SALES
BETWEEN THAILAND AND U.S.

by

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June 1982

Thesis Advisor:

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The objective of the thesis is to increase the effectiveness and efficiency of the Royal Thai Navy in procurement. If Thai Navy Officers, who work in procurement, can understand the functioning of the U.S. Government, it will help smooth the procurement of FMS and assure good relationships between both countries.

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Foreign Military Sales Between Thailand and U.S.

by

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requirements for the degree of

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ABSTRACT

The procurement of materials by Foreign Military Sales (FMS) between Thailand Government and U.S. Government has been worthwhile in the past. Further, the money that the Thailand Government pays for materials procured from the U.S. has increased every year. The scope of this thesis includes the FMS policy of U.S. Government, the departments in U.S. that pertain to FMS, the documents that are used in FMS etc. The objective of the thesis is to increase the effectiveness and efficiency of the Royal Thai Navy in procurement. If Thai Navy Officers, who work in procurement, can understand the functioning of the U.S. Government, it will help smooth the procurement of FMS and assure good relationships between both countries.

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I. INTRODUCTION

A. POLICY

In the 1950s United States Security Assistance consisted mainly of surplus military equipment, transferred through grants in aid or loans. This assistance was designed to support friendly foreign countries in establishing, and maintaining, adequate defense postures which were consistent with their economic stability and growth, to help them to maintain internal security and to resist external aggression. Economic well being and opportunity for peaceful development of friendly foreign countries is essential to the security of the United States. This principle is inherent in the Truman Doctrine, the Marshall Plan, the Nixon Doctrine, the Ford Administration and in the emphasis on Human Rights in the Carter Administration. Assistance has been rendered in a variety of ways, including the providing of defense articles and services through sale or grant, and the making of financial and commodity grants. [Ref. 1: p. 2-1]

By the 1960s, the impetus of Security Assistance changed from Grant Aid to United States Government (USG) sales of military services and equipment to foreign governments (FG). While the total of security Assistance has remained approximately the same, the assistance in the form of Grant Aid has diminished greatly, and the sales of military equipment and services have increased markedly.

B. FMS AND FOREIGN POLICY

Foreign Military Sales, in addition to other elements of the Security Assistance Programs support the United States foreign policy. The Hon. W. P. Clements, Deputy Secretary of Defense, on 11 November 1975, before the House Committee on International Affairs, stated: "The principal purpose of Security Assistance both the grant aid and the military sales programs is to strengthen deterrence and promote peaceful resolution of international issues by helping our friends and allies to maintain adequate defense force of their own ... If we achieve regional stability in crucial areas of the world without the need for direct intervention by American forces then our security assistance efforts have been rewarded.

Since its initiation in the early years following World War II, security assistance has served as a particularly effective instrument of U.S. Foreign and defense policy.

With the grant aid program steadily diminishing, it is vital that we maintain a strong security assistance sales program. These sales give us a means of continuing to support traditional friends and allies who can now afford to pay, in whole or in part, for their security requirements. These security assistance programs help us maintain important political and military relationships in key areas of the world and provide effective means of strengthening and stabilizing regional military balances. Moreover, with the

increased military capabilities of our friends, there is a reduced likelihood of US Military involvement in crisis situations." [Ref. 1: p. 2-6]

The FMS program also comprises a very significant economic element of international logistics. Under the FMS classification there are a large number of sales of non-weapon items, e.g., trucks, training, spare parts, and electronics. Only approximately forty percent of FMS can be considered, literally, as sales of weapon systems or munitions.

I would like to explain the pertinent policy of U.S. Government from the past until now to indicate the change in FMS.

Henry A. Kissinger, former Secretary of State, assessed relationship in Asia when he wrote:

"In the past generation Americans have fought three major wars in Asia. We have learned the hard way that our own safety and well being depend upon peace in the Pacific and that peace cannot be maintained unless we play an active part.

Our prosperity is inextricably linked to the economy of the Pacific basin. Last year our trade with Asian nations exceeded our trade with Europe. Asian raw materials fuel our factories; Asian manufacturers serve our consumers; Asian markets offer outlets for our exports and investment opportunities for our business community.

And our ties with Asia have a unique human dimension. For generations Americans have supplied an impulse of change to Asian societies; Asian culture and ideas in turn have touched our intellectual, artistic, and social life deeply.

American foreign policy has known both great accomplishment and bitter disappointment in Asia. After World War II we sought above all to contain Communist expansion. USG essentially succeeded. USG forged a close alliance with democratic Japan. USG and our allies assisted South Korea in defeating aggression. USG provided for the orderly transition of the Philippines to full independence. USG strengthened the ties with Australian and New Zealand that had been forged as allies in two wars. USG spurred the development of the Pacific basin into a zone of remarkable economic vitality and growth." [Ref. 2: p. 1-30]

America had its fill of the seemingly interminable war in Southeast Asia. The enormous cost in lives and national treasure, domestic turmoil, and general discontent led to negotiation for early end of the Vietnam war. The experiences of the Southeast Asia entanglement led to changed directives and initiatives of our foreign policy, and of a natural consequence, major impact on our approach to security assistance. One of the primary aspects of the changed policy was the transfer of immediate self defense responsibilities to indigenous forces while the US would provide materials and economic support assistance.

The Nixon Doctrine, originally known as the Guam Doctrine in recognition of the site of its proclamation in 1969 on Guam Island, enunciated new guidelines for American Foreign policy. In essence the doctrine:

".... limited in its applicability to Asian states, the new policy was later expanded into the Nixon Doctrine with global implications. Although critics held that American military support missions in Cambodia and Laos, during the early 1970s, violated the basic principles of the doctrine in that, although the United States will participate in the development of security for friends and allies, the major effort must be made by the governments and peoples of these states. The doctrine was mainly a product of public reaction against the major but largely unsuccessful military intervention by the United States in Vietnam during the 1960s. As policy, its promulgation was directly related to the efforts of the Nixon Administration to extricate American forces from Indochina. The Ford Administration continued the policy."

[Ref. 2: p. 1-33]

President Carter's pledge to restrain conventional arms transfers was announced in a speech on 19 May 1977.

Key points:

- Dollars restrains and other controls will not apply to NATO, Japan, Australia and New Zealand. The U.S. will remain faithful to treaty obligations, as well as to responsibilities regarding Israel's security.

- The dollar volume of new commitments under FMS and Map for weapons and weapons-related items in FY-77 (in constant '76 dollars) will be reduced from the FY'77 total. (The FY'80 ceiling is \$9.2 billion) services and commercial sales are excluded from the total.
- The U.S. will not be the first to introduce newly-developed advanced weapon systems until the system is operationally deployed with U.S. Forces.
- Development or significant modifications of such systems solely for export will not be permitted. (In Jan. '80 this policy was modified to permit development of an export fighter aircraft designed.)
- Agreements for co-production of significant weapons, equipment or major components will be limited to assembly of subcomponents and fabrication of high turn-over spare parts.
- In addition to existing requirements under the law, the U.S. may stipulate, as a condition of sale, that it will not entertain requests for retransfers to third countries.
- Department of States policy - level approval will be required for licensing of manufacturers' for sales promotion of arms abroad, and for U.S. military or civilian briefings which might promote sales. U.S. Embassies or military elements will not promote arms sales.

C. BASIC SALES POLICY

In enacting the Arms Export Control Act (AECA), as amended, the Congress consolidated and revised foreign assistance legislation relating to reimbursable exports. In this Act (AECA '76) the Congress

- Declared the ultimate goal of the U.S. to be a world free of dangers and burdens of armaments with the use of force subordinated to the rule of law.

- Affirmed the increasing cost and complexity of defense equipment and recognized that there continues a need for international defense cooperation to maintain peace and security.

- Established that the United States will facilitate the common defense by entering into international arrangements with friendly countries on projects of cooperative exchange of data, research, development, production, procurement and logistics support to achieve national defense requirements and objectives of mutual concern.

- To this end, authorized sales to friendly countries to equip their forces with due regard to impact on social and economic development and on arms races, and

- Declared the sense of the Congress that all such sales be approved only when they are consistent with the foreign policy interests of the United States.

D. SALE GUIDELINES

Except where overriding considerations dictate otherwise, the following guidelines will govern Department of Defense sales activities.

- Departments of Defense sales will support the foreign policy interests of the United States.

- Department of Defense will be responsive to foreign requests for sales proposals.

- Countries will be encouraged, consistent with economic financial capabilities, to make the transition from grant aid to sales.

- To the extent practicable, the Department of Defense will assist U.S. industry in making sales directly to foreign governments. Relationships with industry will be forthright, factual, and will avoid all connotation of favoritism.

- The Department of State has advised commercial firms who plan to discuss the sale of defense articles overseas to.

- . touch base with the local MAAG or American Embassy representative upon arrival in-country, and

- . inform the MAAG or Embassy representative whether or not they have a license to discuss technical data regarding the project planned to be discussed with host nations, and if not, how the commercial firm expects to handle the matter.

There is no mandatory requirement for a commercial firm to contact the MAAG or local Embassy representative but it is in the best interests of all concerned if commercial firms do so.

Department of Defense policy is one of even handedness when dealing with commercial firms engaged in overseas marketing activities. When U.S. industry representatives approach the MAAG personnel should, within policy guidelines, use their own best judgment in determining country officials for the purpose of discussing a possible sale or whether any other assistance should be given.

- Unless dictated by overriding logistics considerations approved by the Secretary of Defense the Department of Defense will not enter into sales arrangements which entail commitments for Department of Defense procurement in foreign countries.

- Credit and credit guarantees under the Arms Export Control Act will be used only to assist countries in acquiring essential items which cannot reasonably be financed by other means and normally will be used only to finance investment requirements.

- Wherever practicable, guaranteed credit will be used instead of direct FMS credit.

- Concessionary FMS credit terms (i.e. interest ratios less than cost of money to the U.S. Government) will be granted only when determined by the President to be required by the national interest.

- We welcome consultation with our friends and allies on research, development, production, and logistic support programs of mutual interest. [Ref. 3: p. B-1]

The text of the Reagan Administration policy statement on conventional arms export controls as issued by the White House July 9, 1981, included: [Ref. 4]

Objectives

- Help deter aggression by enhancing the state of preparedness of allies and friends.

- Increase our own armed forces' effectiveness by improving the ability of the United States, in concert with its friends and allies, to project power in response to threats posed by mutual adversaries.

- Support efforts to foster the ability of our forces to deploy and operate with those of our friends and allies, thereby strengthening and revitalizing our mutual security relationships.

- Demonstrate that the United States has an enduring interest in the security of its friends and partners, and that it will not allow them to be at a military disadvantage.

- Foster regional and internal stability, thus encouraging peaceful resolution of disputes and evolutionary change, and

- Help to enhance United States defense production capabilities and efficiency.

E. DECISION FACTORS

In making arms transfer decision the United States will give due consideration to a broad range of factors including:

- the degree to which the transfer responds appropriately to the military threats confronting the recipient

- whether the transfer will enhance the recipient's capability to participate in corrective security efforts with the United States

- whether the transfer will promote mutual interests in countering externally supported aggression

- whether the transfer is consistent with United States interests in maintaining stability within regions where friends of the United States may have different objectives

- whether the transfer is compatible with the needs of United States forces, recognizing that occasions will arise when other nations may require scarce items on an emergency basis

- whether the proposed equipment transfer can be absorbed by the recipient without overburdening its military support system or financial resources and

- whether any detrimental effects of the transfer are more than counterbalanced by positive contributions to United States interests and objectives.

F. SECURITY ASSISTANCE PROGRAM

U.S. Government provides Security Assistance Programs in these areas:

- International Military Education and Training (IMET)
- Military Assistance Program (MAP)
- Military Export Sales
 - . Foreign Military Sales (FMS)
 - . Commercial Sales

From the scope of the areas discussed it should be noted that Thailand purchases of materials from the U.S. is a significant amount.

II. ORGANIZATIONS

What are the organizations of the U.S. Government that implement FMS?

I would like to describe them using Figure 2-1 (For those who are interested in FMS this figure should be used as a guide to understand the organizations of the U.S. Government that implement FMS).

The U.S. Security Assistance Program has its roots in U.S. public laws which contain Security Assistance authorization, appropriations, restrictions, and reporting relationship. To understand how this legislation is welded into a coherent foreign policy program, it is appropriate to briefly discuss the roles of the three branches of the U.S. Federal Government with respect to security assistance.

A. EXECUTIVE BRANCH

The President. Article 2 Section 1 of the United States constitution establish the President as the single chief executive and by inference the chief arbiter in matters of foreign policy. Furthermore, Section 2 of this same Article empowers the President by and with the consent of the Senate to make treaties, and appoint ambassadors and other public ministers. Section 3 of Article 2 authorizes the President to receive Ambassadors and other Public Ministers all essential facets of carrying out U.S. foreign policy. Finally,

UNITED STATES GOVERNMENT ORGANIZATION FOR SECURITY ASSISTANCE

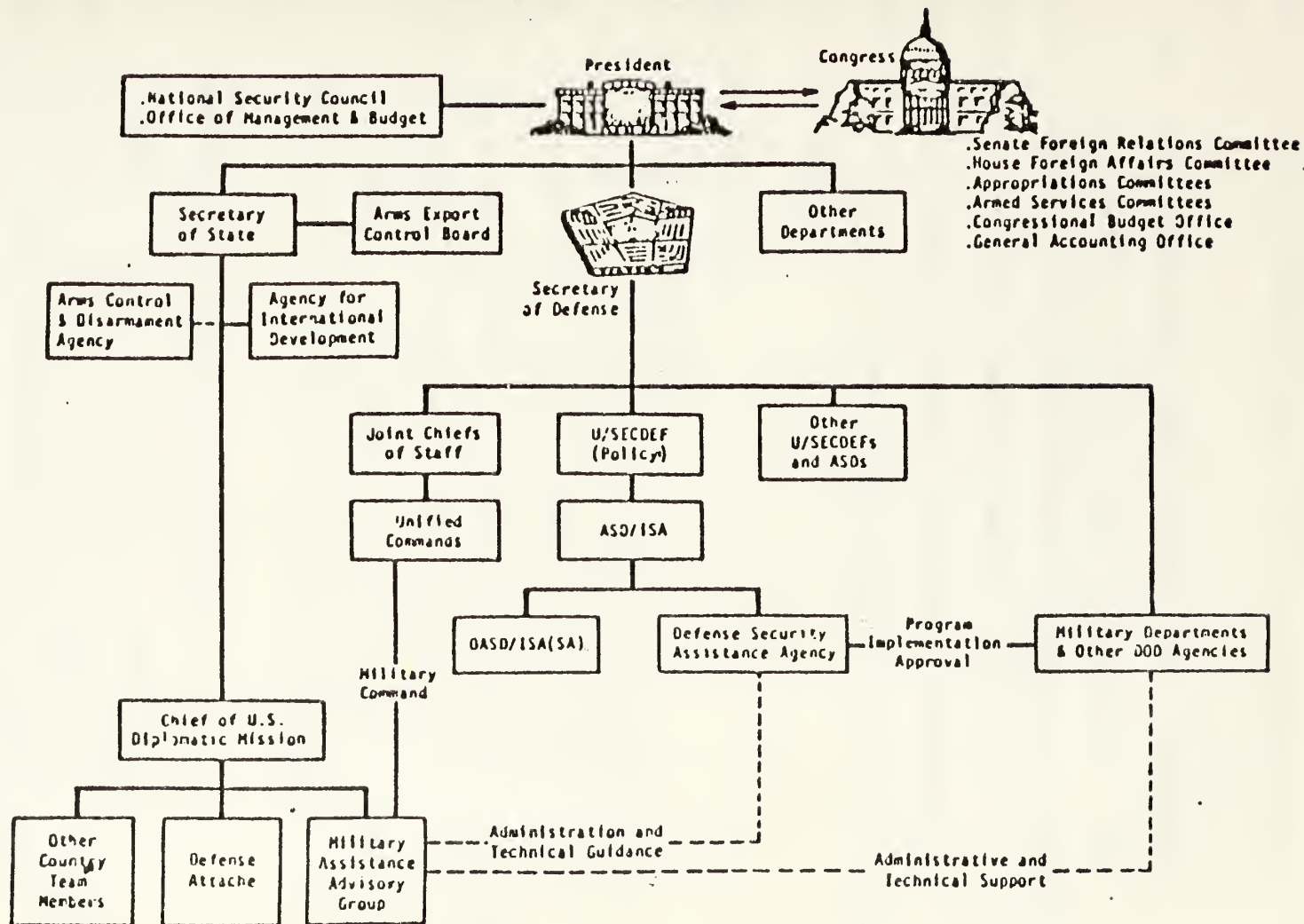


Figure 2-1. United States Government Organization for Security Assistance.

it is the U.S. Security Assistance program/budget sent to the Congress for their consideration, which is executed once it becomes law.

As the chief executive, the President is responsible for all of the activities of the Executive Branch. In a subsequent section, where the Executive Branch is discussed in more detail, it shall become apparent that the President has numerous assistants, cabinet officers, and other subordinate officials to oversee the conduct of the U.S. security assistance program.

B. LEGISLATIVE BRANCH

1. The Role of Congress

The Congress of the United States, as provided by Article 1, Section 1, of the U.S. Constitution, is vested with all legislative powers. In terms of security assistance, Congressional power and influence are exerted in several ways.

- Development, consideration, and action on legislation to establish or amend basic security assistance authorize acts.

- Enactment of appropriation acts.

- Passage of Joint Resolutions in the form of a Continuing Resolution Authority (CRA) to permit the incurrence of obligations to carry on essential security assistance program activities until appropriation action is complete.

- Hearings and investigation into special areas of interest, to include instructions to the General Accounting

Office (GAO), the Congressional Research Service (CRS) to accomplish special reviews.

- Ratification of treaties which may have security assistance implications.

2. Special Congressional Offices

There are certain offices which can have an impact on the conduct and management of the U.S. security assistance program. These include

- The General Accounting Office (GAO). The GAO is under the control and direction of the Comptroller General of the United States, appointed by the President with the advice and consent of Senate for a term of 15 years. The audit authority of the GAO extends to all departments and other agencies of the Federal Government. Among other things, the GAO also has statutory authority to prescribe accounting principles and standards, and settle claims by and against the United States.

- The Congressional Budget Office (CBO). The CBO provides Congress with basic budget data and with analysis of alternative fiscal, budgetary, and programatic policy issues.

- The Congressional Research Service, Liberty of Congress accomplishes special studies for the Congress. Often, these studies are concerned with Security Assistance issues and policies.

- The Cost Accounting Standards Boards is composed of the Comptroller General of the United States, who serves

as Chairman, and four members appointed by him. The Board promulgates cost accounting standards designed to achieve uniformity and consistency in the cost accounting principles followed by defense contractors and subcontractors under Federal contracts. In as much as the Foreign Military Sales program involves new procurement, the impact of the Board on security assistance is apparent.

C. JUDICIAL BRANCH

The Courts. Article 3, Section of the Constitution of the United States provides for the Federal Court system. It is reasonable to conclude that the courts have very minimal involvement in the day-to-day activities of security assistance. However, involvement is possible should a contractor, who is providing materials or services under a DOD contract associated with FMS, decide to pursue legal remedy in the event of a dispute through the appropriate court of entry. [Ref. 2: p. 5-1]

D. EXECUTIVE OFFICE OF THE PRESIDENT

It is appropriate to initially review certain organizations having an impact on Security Assistance within the Executive Office of the President.

1. National Security Council

The National Security Council (NSC) is undoubtedly the highest foreign policy advisory council in nation. Chaired by the President of the United States, its statutory member include the Vice President and the Secretaries of

State and Defense. The Chairman of the Joint Chiefs of Staff is the statutory military advisor and the Director of Central Intelligence is its intelligence advisor. The function of the Council is to advise the President with respect to the integration of domestic, foreign, and military policies relating to national security. Certainly, many security assistance issues fall into this category.

2. Office of Management and Budget

The Office of Management and Budget (OMB) assists the President in the development of the Federal budget. Security assistance budgetary accounts are displayed in the documents making up The budget of the United States Government. With respect to foreign military sales, for example, OMB is highly interested in the impact on DOD military and civilian manpower, facilities, performing accounts, and so forth.

E. DEPARTMENT OF STATE ROLE IN FMS

Foreign Military Sales, as a part of the Security Assistance Program, support the foreign policy and security objectives of the United States. Sales have, in the past, improved foreign countries internal order and increased the prospects for regional stability, thereby reducing the likelihood of direct U.S. military involvement.

In the Executive Branch of the U.S. Government, the Department of States has primary responsibility, under the direction of the President, for implementing foreign policy (see Figure 2-2). The authority and responsibility of the

U.S. GOVERNMENT ORGANIZATION FOR FMS

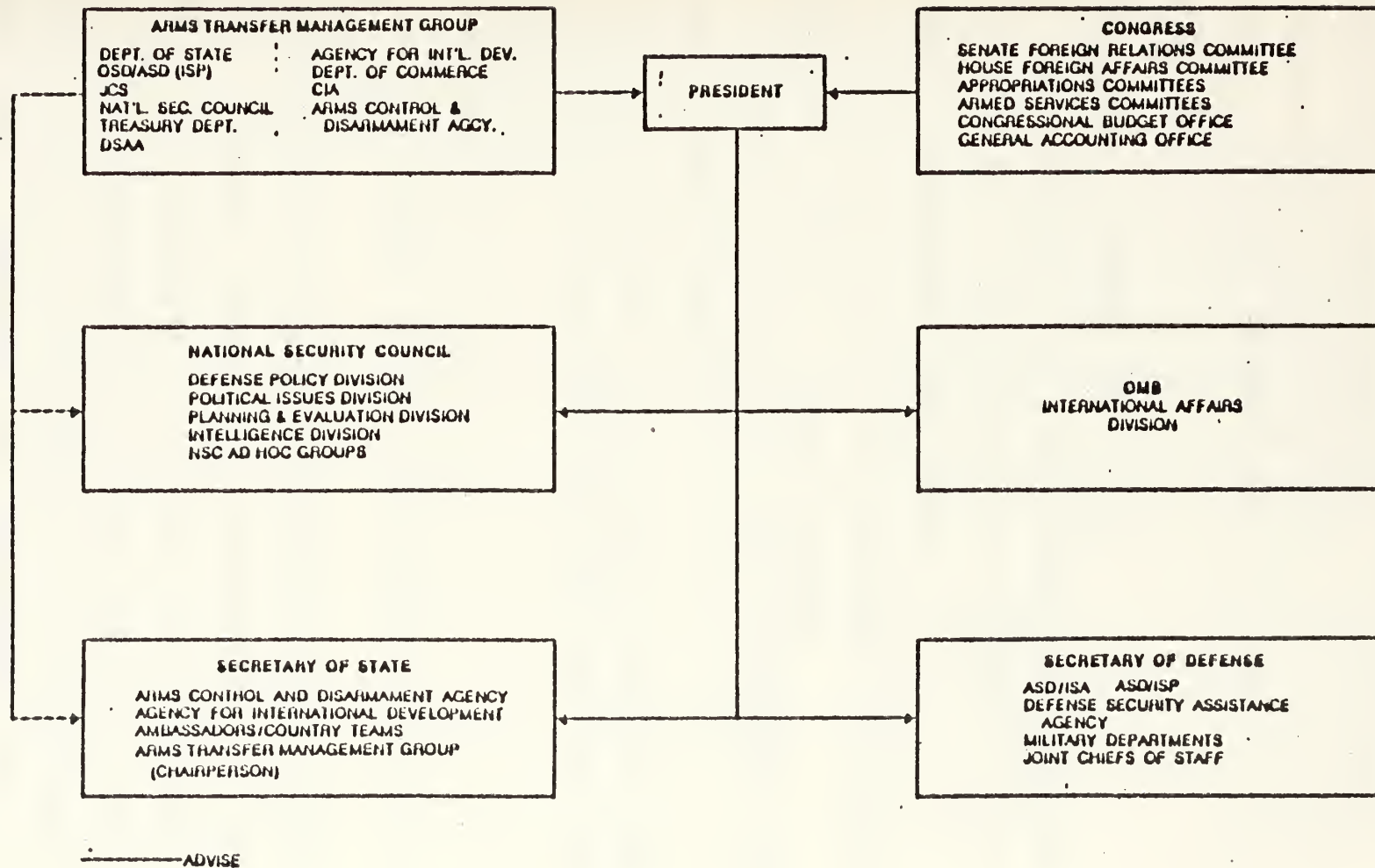


Figure 2-2. U.S. Government Organization For FMS.

Secretary of State, Department of State, in matters of foreign policy is stated explicitly in the Arms Export Control Act and Executive Order 11501. The authority of the Secretary of State includes approval authority for all military sales.

F. DEPARTMENT OF DEFENSE ROLE IN FMS

In the Foreign Military Sales Program, the Department of Defense is the primary agency that implements the sale. Its scope or responsibilities include:

- Assisting the customer in determining its requirements as related to a specific system or support.
- Contracting for the weapon system development, production and delivery to the FG.
- Providing training construction and logistic support.
- Collecting the purchase price from the FG and paying the contractor.
- Management of the contract.
- Sales of defense articles and defense services from stocks of DOD.

In carrying out its responsibilities the DOD provides pricing, production, scheduling, and delivering details to eligible FGs, on approval of the sale by the Department of State, and determination that the sale will be in the national interest of the U.S.. After the request for purchase has been approved, usually based upon an inquiry from an FG for a Price and Availability (P&A) of a defense system or services,

the DOD responds to the request by the issuance of a Letter of Offer (LOA) (a Letter of Offer becomes a letter of Offer and Acceptance on signature by the FG). In addition, the law provides that for order of \$14 million or more and less than \$50 million for major defense equipment, DOD submits the proposed sale to Congress for review.

Details of pricing, contracting, production, delivery and follow-up support are generally the responsibility of the Military Department whose system or service is involved, and the industry or industries that will actually produce the equipment.

The Military Departments functional activities conducted in the implementation of the FMS include: preparation of data necessary for program planning and budgeting; advice and recommendations on program modifications; procurement and delivery of materials; inclusion and actual LOAs for the military sales cases; and coordination and implementation of actions necessary to accomplish delivery of end items; related training; and logistic support.

1. Office of the Secretary of Defense Organization in FMS

As shown in Figure 2-3, the Assistance Secretary of Defense International Security Affairs (ASD/ISA) (also ASD/ISP) is the principal staff assistant to the Secretary of Defense in the functional field of International Security which encompasses Foreign Military Sales. ASD/ISA formulates policy, and represents the Department of Defense with other

OSD ORGANIZATION FOR FMS

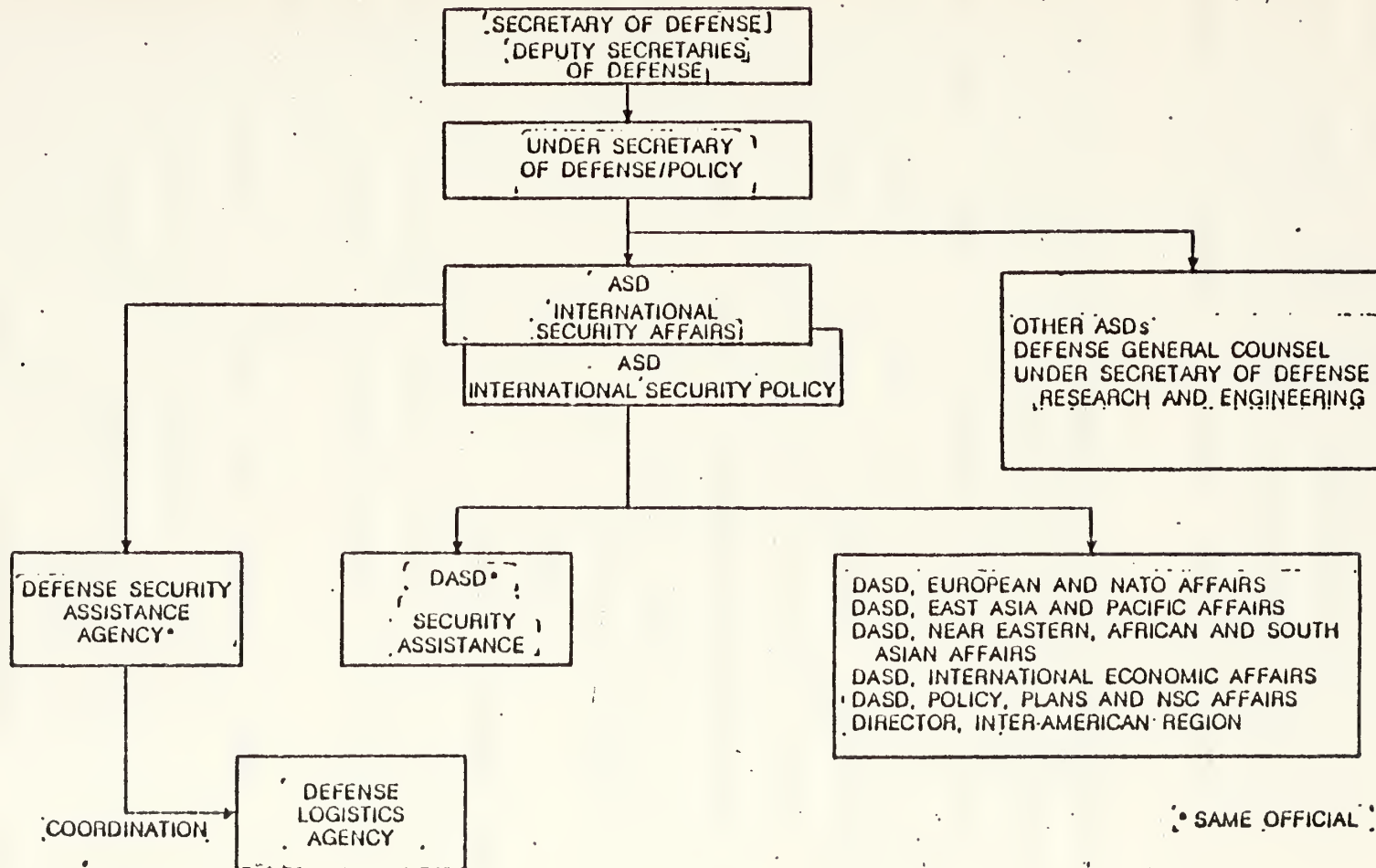


Figure 2-3. OSD Organization For FMS.

agencies in matters which concern Security Assistance, policy and guidance. The Defense Security Assistance Agency (DSAA) reports to the Assistant Secretary of Defense, International Security Affairs (ASD/ISA) who carries the responsibilities of the Secretary of Defense under the Arms Export Control Act of 1976, and the executive orders and directive relating to the administration of military assistance and foreign military sales.

The Deputy Assistant Secretary of Defense/Security Assistance and as DSAA, is responsible for the implementation and monitoring of approved programs through the military departments and agencies within the Department of Defense.

The Assistant Secretary of Defense, International Security Affairs (ASD/ISA) (including ASD/ISP) retains, at his level, the final decision authority for development and implementation of FMS policy. ASD/ISA reports to the Secretary of Defense through the Under Secretary of Defense for Policy, and the Deputy Secretary of Defense.

The Assistant Secretary of Defense, International Security Policy (ASD/ISP) supports the Sec Def and USD/Policy in the area of Security Assistance policy, primarily in European and NATO countries.

In accordance with ASD/ISA guidelines, DSAA acts as FMS action/coordination/implementation group for ASD/ISA. In this role, DSAA handles, all FMS matters for the Secretary of Defense, coordinating with multiple offices; passing recommendations to, and implementing actions approved by, ASD/ISA or an authority at a higher level.

Frequent internal coordination takes place within the ASD/ISA Regional; Planning and Policy; Legal; and International Economic Affairs Offices. The Department of State also conducts internal coordination between its Regional and Political-Military Offices. Within the Office of the Joint Chiefs of Staff, the Regional and Policy Offices coordinate.

Coordination within OSD is expanded, when necessary, to include Research and Engineering (OUSDR&E) Munitions Control; Industrial Security Comptroller and Legislative Affairs Offices.

Organizational relationships of OSD: Joint Chiefs of Staff. The Joint Chiefs of Staff (JCS) are the principal military advisers to the President.

Unified Commands: Three unified commands have responsibilities for the conduct of the U.S. Security Assistance Program within their respective regions. They include: the United States European Command (EUCOM); the United States Pacific (PACOM); and the United States Southern Command (SOUTHCOM). The functions of the unified commands include such as: making recommendations to the JCS and the Secretary of Defense, commanding and supervising the MAAGs in matters that are not functions or responsibilities of the Chiefs of the U.S. Diplomatic Missions.

2. Military Assistance Advisory Groups (MAAGs)

The role of the Military Assistance Advisor Groups (MAAGs) in the country in the past is conveyed by their title

.... to provide military assistance advice. These groups have provided a meaningful liaison role with the military and political elements of countries around the world. They report to both the Ambassador or Mission Chief and to the United Commands.

3. Defense Agencies

Defense Security Assistance Agency (DSSA). DSAA is established as a separate agency of the DOD under the direction, authority, and control of ASD/ISA. Some of the functions of DSAA are:

- Administration and supervision of security assistance planning and programs.
- Conducting international logistics and sales negotiation with foreign countries.
- Managing the credit financing program.
- Making determinations with respect to the allocation of FMS administrative funds. [Ref. 2: p 5-25]

G. DEFENSE LOGISTIC AGENCY (DLA)

DLA is a DOD agency under the control of ASD/MRA&L. The mission of DLA is to provide a source of supply (other than procurement from the international logistics offices of the Military Services) to fill FG requirements. Unlike the efforts of the Military Services, DLA does not purchase new equipments, material or services for FMS.

I would like to describe "Excess Property" and "Blanket Open-End Accounts" in this chapter because they pertain to DLA.

"Excess Property" is equipment or material which U.S. Military Services have declared excess to their requirements, due to long supply or to obsolescence resulting from technological advances. It may also be property reported as no longer required by their FGs who were recipients of military equipment under Military Assistance or Grant Aid Programs. DLA's Foreign Military Sales Pamphlet provides procedural information for implementation of Excess Property FMS. [Ref. 1: p 3-20]

"Blanket Open-End Accounts" (BOE)- FMS require standard DD Form 1513, Letter of Offer and Acceptance (LOA). We will study the details of documents in the next chapter. Normally, these transactions are cash sales, implemented by one of the following two procedures: 1) total sale amount (in U.S. dollars) forwarded with the accepted LOA, or 2) deductions are from FG funds deposited in advance into Blanket Open-End (BOE) accounts at the Defense Property Disposal Service (DPDS), a DLA field organization. The advance deposit BOE is a signed, open-ended DD Form 1513, on file with a headquarters who is authorized to make offers for future procurement of Excess Property. As material is ordered, billing is applied against the DD Form 1513 funds. Thus, incremental sales are deducted from the running balance of the deposit. BOE arrangements provide the most efficient method for filling an FG requirement, resulting in significant reduction in processing time, as well as in the number of documents actually processed. [Ref. 1: p. 3-21]

Upon receiving a signed LOA/DD Form 1513 with payment, the initiating DLA Headquarters prepares and distributes one (or more) DPDS Form 176 Transfer Order (s) authorizing release and shipment of the property, in accordance with the instructions contained in the accepted DD Form 1513. DPDS Form 176 also serves as a notice of availability to freight forwarders in those instances when specific shipping instructions must be issued, prior to shipment.

The objective of the DLA FMS program is to maximize the utilization of excess property, to contribute favorably to both U.S. and foreign government national security objectives, and to support foreign policy, as set by the U.S. Department of State.

H. DEPARTMENT OF THE NAVY

In my thesis I would like to write only about the organization of the U.S. Navy that will pertain to the Royal Thai Navy.

The Navy has a centralized organization for handling security assistance matters. Within the Office of the Chief of Naval Operations under the direction of the Deputy Chief for Plans, Policy and Operations, is located the Security Assistance Division (Code OP-63). This division formulates and implements security assistance policy for the Navy. In addition, all interface with other government agencies is conducted by OP-63. In the Navy, sales negotiations for all types of FMS cases are carried out by OP-63, which then prepares all Letters of Offer (Figure 2-4).

NAVY ORGANIZATION FOR SECURITY ASSISTANCE

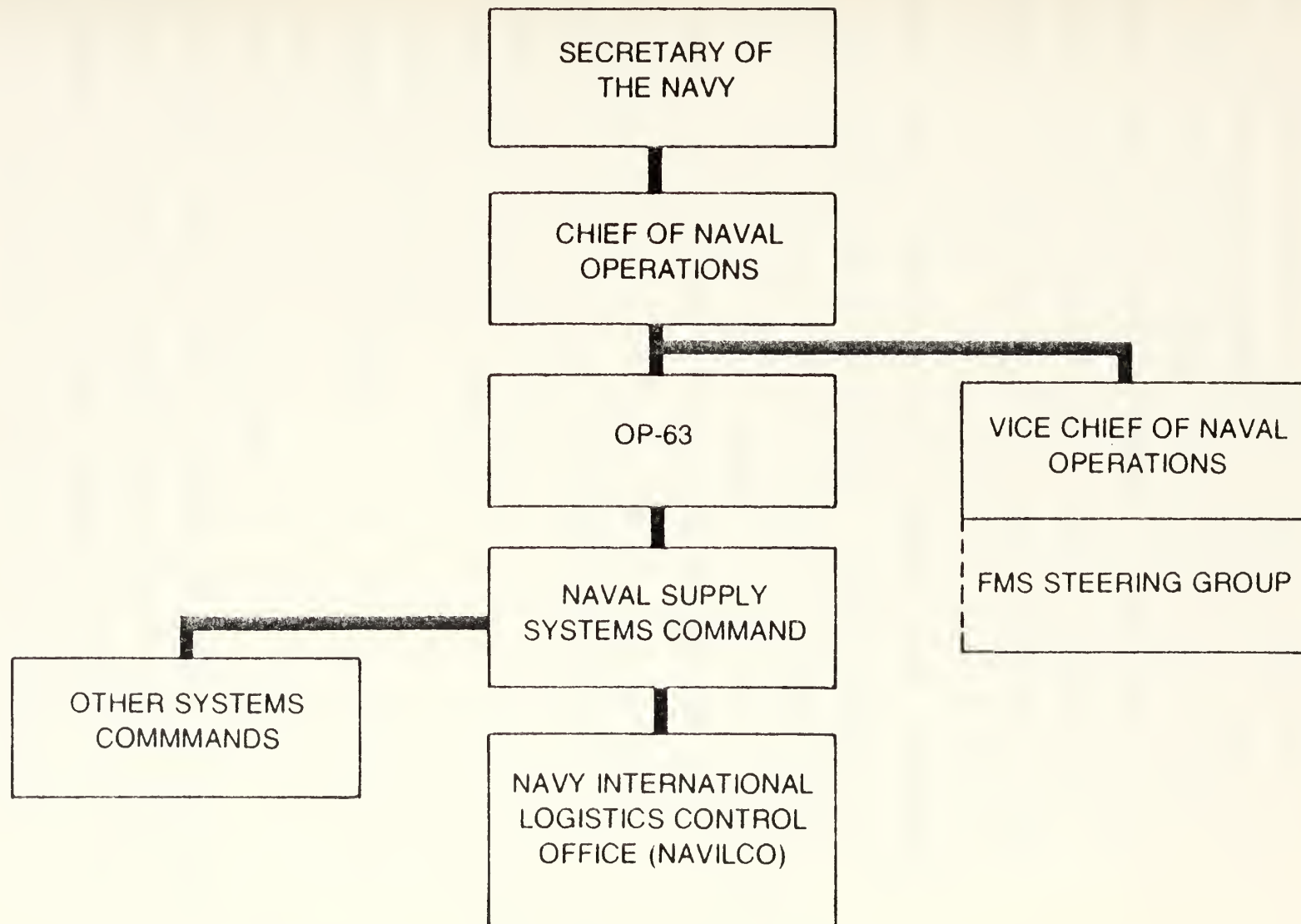


Figure 2-4. Navy Organization For Security Assistance.

The Naval Material Command has a significant role in the security assistance process. Within Naval Material Command, COMNAVSUPSYSCOM (SUP-07), Deputy Commander for Security Assistance is NAVMAT's counterpart to OP-63 in CNO. The function of NAVSUP is to provide centralized planning, cooperation and management of FMS cases within the Naval Material Command (NMC). NAVSUP controls and coordinates the implementation of policy decision in NMC. Naval Material Command is organized into five functional producer commands (NAVAIR SYSCOM, NAVSEA SYSCOM, NAVELEXSYSCOM, NAVFACENGCOM and NAVSUPSYSCOM). These commands are responsible for acquisition and logistics support of NMC cognizance weapons systems, equipment, training and services contracted for under FMS. The system command and their field activities are the working level of the material acquisition process, and are organized to manage the following functional activities.

- Financial Accounting Control
- Contract Management
- Research and Development
- Logistic Support
- Engineering and Acquisition

The system command level is where the detailed management of security assistance programs take place. Within each of the commodity-oriented systems commands is a small group for Security Assistance policy, coordination and monitoring.

However, the system project office charged with the implementation of the sale is the same office that handles the U.S. weapon system. In the acquisition of a large system, the project manager must coordinate with all activities involved, including procurement offices, Inventory Control Points (ICPS), test facilities, overhaul points, contractors and the Chief of Naval Education and Training. Price and availability data for a system sale is normally developed under the direction of the project manager.

Under the Naval Supply Systems Command are the three Navy ICPs: The Aviation Supply Office (ASO), the Navy Publication and Forms Center (NPFC), and the Ships Parts Control Center (SPCC). These ICPs are instrumental in developing price and availability for secondary items. In addition, the ICPs develop lists of concurrent spare parts and the equity lists required for Cooperative Logistics Supply Support Arrangements (CLSSAs). When requisitions are received for FMS programs, the determination is made at the ICP whether material will be issued from stock or whether the ICP must buy the item. Within each of the ICPs is a small group dedicated to overseeing security assistance programs, but the bulk of the work is done by regular inventory managers and technical personnel.

One Navy organization that is unique to security assistance is the Navy International Logistics Control Office (NAVILCO). NAVILCO controls all security assistance requisitions and provides the foreign customer supply and

shipping states, as well as providing delivery status of requisitions to the Security Assistance Accounting Center (SAAC). NAVILCO is also involved with the financial control of FMS programs, since it records all obligational/expenditure authorities from SAAC and the Office of the Comptroller of the Navy, and in turn distributes these authorities to the appropriate activity. From NAVILCO, may be obtained the status of requisitions placed upon the U.S. Navy supply system (Figure 2-5).

30

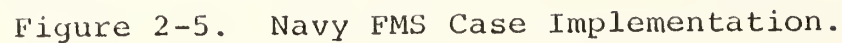


Figure 2-5. Navy FMS Case Implementation.

III. DOCUMENTATION

What are the important documents that we use in FMS?

There are documents that we should know in procurement by FMS:

A. LETTER OF INTENT (LOI)

The LOI is divided into two forms:

1. DD Form 2012

This term is used to finance procurement of long lead time items prior to the issuance of DD Form 1513, Letter of Offer and Acceptance (Figure 3-1).

2. DD Form 2012-1

This form is used to finance procurement of long-lead time items during the period between issuance of a DD Form 1513, and acceptance by the purchasing country (Figure 3-2).

Both forms specified dollar limitation on the liability of the purchasing country for the procurement of the long-lead time items. It is necessary that all cost-reimbursement contracts awarded to implement a Letter of Intent (procurement as well as research and development), include a limitation of Cost or Funds clause. The clause may be deleted by contract amendment after the FG has signed the Letter of Offer and Acceptance.

The use of the Letter of Intent does not constitute authorization to take implementing action in advance of

<p align="center">UNITED STATES DEPARTMENT OF DEFENSE LETTER OF INTENT</p>	<p>PURCHASER (Name and address)</p>
<p>(Purchaser's Reference)</p>	<p>(Case Number)</p>

The Government of _____ acting through its Ministry of Defense (hereinafter referred to as the "Purchaser") hereby declares its firm intent to procure, under United States Arms Export Control Act (AECA) procedures, from the Government of the United States, the following defense articles and defense services.

1. It is understood that the United States Department of the _____ plans to present to the Purchaser a Letter of Offer and Acceptance (DD Form 1513) within _____ days after signature of this Letter of Intent. Purchaser intends to sign said Letter of Offer and Acceptance not later than _____ days after receipt. Except to the extent directly inconsistent with the provisions hereof, the terms and conditions set forth on Annex A of DD Form 1513 will apply to all activities undertaken pursuant to this Letter of Intent, and the estimated costs of such activities will be included in the Letter of Offer and Acceptance. In particular, Conditions B.8, B.9, and C on Annex A of DD Form 1513 are hereby incorporated by reference and made an integral part of this Letter of Intent. This Letter of Intent shall be superseded upon Purchaser's signature of the Letter of Offer and Acceptance.

2. In anticipation of the Purchaser's signature of the above-mentioned Letter of Offer and Acceptance the Purchaser commits his Government to the following:

(a) In order to permit the United States Government to proceed immediately with the purchase of long lead time items and to cover associated administrative expenses, the United States Department of the _____ is herewith authorized to incur obligations and expend up to the sum of \$_____ (which includes all estimated termination costs) on an FMS dependable undertaking basis, to be exceeded only in the event of a decision by either a Court or Board which increases the contractor's entitlement.

(b) The Purchaser agrees to pay the full amount of such authorized obligations and to make funds available in such amounts and at such times as may be requested by the United States Government for expenditures against such obligations.

(c) It is estimated that the cost of the long lead time items, associated administrative expenses and estimated termination costs will not exceed the amount set forth in subparagraph (a) of this paragraph. However, if at any time prior to Purchaser's signature of the above-mentioned Letter of Offer and Acceptance, the United States Department of the _____ has reason to believe that the costs which it expects to incur in the performance of this Letter of Intent will exceed the amount set forth in subparagraph (a) of this paragraph, it shall promptly notify the Purchaser in writing to that effect. The notice shall state the estimated amount of and the date by which

DD FORM 2012

EDITION OF 1 FEB 76 IS OBSOLETE.

Figure 3-1. United States Department of Defense Letter of Intent.

the additional obligational authority (by a new or modified Letter of Intent) will be required from the Purchaser in order to continue performance under this Letter of Intent. If, after such notification, the additional obligational authority is not granted by the date set forth in the notification, the United States Government is authorized, in its discretion, to terminate any and all activities under this Letter of Intent at Purchaser's expense, in accordance with subparagraph (b) above, in an amount not to exceed the amount set forth in subparagraph (a) of this paragraph.

3. This Letter of Intent does not prejudice the Purchaser's decision on the acceptance of the Letter of Offer. Moreover, the Purchaser may cancel all or any part of this Letter of Intent at any time by notifying the United States Government. Upon receipt of such notification the United States Government is authorized to terminate any and all activities initiated hereunder, at Purchaser's expense, in accordance with paragraph 2(b), in an amount not to exceed the amount set forth in paragraph 2(a).

4. In the event of such cancellation or termination, the United States Government will use its best efforts to minimize any termination costs.

5. Certain items for which procurements may be initiated hereunder are normally the subject of definitization or provisioning conferences, at which specific items and quantities are agreed upon. If it is necessary to place any such items on order prior to any such conference, the United States Department of the _____ is authorized to do so, using its best judgment, and will furnish a list of the items so ordered at the conference.

Dated _____

(Typed Name and Title)

Accepted this _____ day of _____, 19____

U.S. Department of the _____

UNITED STATES DEPARTMENT OF DEFENSE LETTER OF INTENT	PURCHASER (Name and address)
---	------------------------------

(Purchase's Reference)	(Case Identifier)
------------------------	-------------------

The Government of _____ acting through its Ministry of Defense (hereinafter referred to as the "Purchaser") hereby declares its firm intent to procure, under United States Arms Export Control Act (AECA) procedures, from the Government of the United States, the following defense articles and defense services.

1. A Letter of Offer and Acceptance (DD Form 1513) for such defense articles and defense services was issued to the Purchaser by the United States Department of the _____ on _____, 19 _____. Purchaser intends to sign said Letter of Offer and Acceptance not later than _____ days after receipt. Except to the extent directly inconsistent with the provisions hereof, the terms and conditions set forth on Annex A of DD Form 1513 will apply to all activities undertaken pursuant to this Letter of Intent, the estimated costs of which activities have been included in the Letter of Offer and Acceptance. In particular, Conditions B.3, B.9, and C on Annex A of DD Form 1513 are hereby incorporated by reference and made an integral part of this Letter of Intent. This Letter of Intent shall be superseded upon Purchaser's signature of the Letter of Offer and Acceptance.

2. In anticipation of the Purchaser's signature of the above-mentioned Letter of Offer and Acceptance the Purchaser commits his Government to the following:

(a) In order to permit the United States Government to proceed immediately with the purchase of long lead time items and to cover associated administrative expenses, the United States Department of the _____ is herewith authorized to incur obligations and expend up to the sum of \$ _____ (which includes all estimated termination costs) on an FMS dependable undertaking basis, to be exceeded only in the event of a decision by either a Court or Board which increases the contractor's entitlement.

(b) The Purchaser agrees to pay the full amount of such authorized obligations and to make funds available in such amounts and at such times as may be requested by the United States Government for expenditures against such obligations.

(c) It is estimated that the cost of the long lead time items, associated administrative expenses and estimated termination costs will not exceed the amount set forth in subparagraph (a) of this paragraph. However, if at any time prior to Purchaser's signature of the above-mentioned Letter of Offer and Acceptance, the United States Department of the _____ has reason to believe that the costs which it expects to incur in the performance of this Letter of Intent will exceed the amount set forth in subparagraph (a) of this paragraph, it shall promptly notify the Purchaser in writing to that effect. The notice shall state the estimated amount of and the date by which the additional obligational authority (by a new or modified Letter of Intent) will be required from the Purchaser in

DD FORM 1513, MAR 1962-1

EDITION OF 1 FEB 76 IS OBSOLETE.

Figure 3-2. United States Department of Defense Letter of Intent.

order to continue performance under this Letter of Intent. If, after such notification, the additional obligational authority is not granted by the date set forth in the notification, the United States Government is authorized, in its discretion, to terminate any and all activities under this Letter of Intent at Purchaser's expense, in accordance with subparagraph (b) above, in an amount not to exceed the amount set forth in subparagraph (a) of this paragraph.

3. This Letter of Intent does not prejudice the Purchaser's decision on the acceptance of the Letter of Offer. Moreover, the Purchaser may cancel all or any part of this Letter of Intent at any time by notifying the United States Government. Upon receipt of such notification the United States Government is authorized to terminate any and all activities initiated hereunder, at Purchaser's expense, in accordance with paragraph 2(b), in an amount not to exceed the amount set forth in paragraph 2(a).

4. In the event of such cancellation or termination, the United States Government will use its best efforts to minimize any termination costs.

5. Certain items for which procurements may be initiated hereunder are normally the subject of definitization or provisioning conferences, at which specific items and quantities are agreed upon. If it is necessary to place any such items on order prior to any such conference, the United States Department of the _____ is authorized to do so, using its best judgment, and will furnish a list of the items so ordered at the conference.

Dated _____

(Typed Name and Title)

Accepted this _____ day of _____, 19 ____.

U.S. Department of the _____

Figure 3-2. (Cont'd)

compliance with the statutory reporting requirement of the Arms Export Control Act, as amended special procedures apply to any such Letter of Intent, regardless of dollar amount, when either the case (DD Form 1513) is estimated to total \$50 million or more, or when it is for the sale of defense equipment for \$14 million or more.

If production scheduling requirements demand procurement of long-lead time items in advance of full compliance with the Arms Export Control Act, as amended, the Military Department concerned promptly forwards its recommendation to the Direction, DSAA, a modified version of the DD Form 2012 will be provided to the Military Department by DSAA on a case-by-case basis.

B. LETTERS OF OFFER AND ACCEPTANCE (LOA)

1. DD Form 1513

The Letter of Offer and Acceptance (DD Form 1513) when signed by the purchasing country, becomes the contractual document between the Foreign Government (FG) and the U.S. Government (see Figure 3-3).

Instructions for preparing the United States Department of Defense Offer and Acceptance (DD Form 1513)

- Block (1) Purchase

. For a country, enter "Government of ..." and show the office and address.

. For an international organization, enter the title of the organization along with the appropriate office and address.

- Block (2) Purchaser's Reference

The reference may be a letter, telegram, oral request, pertinent data, etc.

- Block (3) Case Identifier

Enter the country code, implementing agency code, and case designator.

- Block (4) Signature

Should be filled in by an authorized U.S. Military Department or defense agency.

- Block (5) Typed Name and Title

Type or stamp the name and title of the U.S. representative who signed Block (4).

- Block (6) Address

Enter the name of the issuing organization along with the address.

- Block (7) Date

Enter the day, month and the year that the LOA is submitted to DSAA for counter signature.

- Block (8) This offer expires

Enter the appropriate expiration date, normally 85 days from the date in Block (7)

- Block (9) Countersignature

The authorized representative within DSAA Comptroller for Countersignature of the LOA should sign in this block. (If all the necessary information is contained on the DD Form 1513).

UNITED STATES DEPARTMENT OF DEFENSE OFFER AND ACCEPTANCE				(1) PURCHASER (Name and Address) (2a Code)				
(1) PURCHASER'S REFERENCE		(3) CASE IDENTIFIER						
OFFER								
<p>Pursuant to the Arms Export Control Act, the Government of the United States (USG) hereby offers to sell to the above purchaser the defense articles and defense services listed below (hereinafter referred to collectively as "items") and unconditionally as "defense articles" or "defense services" and part of the items contained herein and conditions set forth in Annex A, and to such other stated terms and conditions which may be a part of, and appended to, the Offer and Acceptance.</p>								
(1a) <u>Supplies (US Department of Defense Acquisitions)</u>				(1b) <u>Country/Agency (Office of the Comptroller, DAA) (Date)</u>				
(1c) <u>Type, Name and Title</u>				(1d) <u>Type, Name and Title</u>				
(1e) <u>Address</u>				(1f) <u>DAA ACCOUNTING ACTIVITY</u>				
(1g) <u>DATE:</u>								
(1h) <u>THIS OFFER EXPIRES</u>								
<p>NOTE: The offer must be accepted not later than the date shown in block 1. Within five (5) days of its acceptance, the purchaser must notify the Office of the Comptroller, DAA. Otherwise, this Offer is canceled and payment of value of deposit by offeror providing deposit upon acceptance shall not be returned a number of such amount as used. Request prompt notification if the offer is accepted.</p>								
(1) US GOVT NO 110	(2) DESCRIPTION of item(s) 110	(3) QUANTITY 110	(4) UNIT OF MEASURE 110	ESTIMATED		(5) DAA CODE 110	(6) DAA CODE 110	(7) DAA CODE 110
				UNIT COST 110	TOTAL COST 110			
(11) ESTIMATED COST				\$				
(12) ESTIMATED PACKING, CRATING, AND HANDLING COST				\$				
(13) ESTIMATED GENERAL ADMINISTRATIVE COSTS				\$				
(14) ESTIMATED CHARGES FOR SUPPLY SUPPORT ARRANGEMENT				\$				
(15) OTHER ESTIMATED COSTS (Specify)				\$				
(16) ESTIMATED TOTAL COSTS				\$				
(17) <u>TERMS</u>				(18) <u>AMOUNT OF INITIAL DEPOSIT - \$</u>				
ACCEPTANCE								
<p>(19) I am a duly authorized representative of the Government of _____ and upon behalf of _____ and Government, accept this offer under the terms and conditions contained herein (20) this _____ day of _____, 19____.</p>				(21) <u>MARK FOR CODE</u>				
				(22) <u>FREIGHT FORWARDER CODE</u>				
<p>(23) <u>SIGNATURE</u></p> <p>(24) <u>TYPED NAME AND TITLE</u></p>				(25) <u>PROCURING AGENCY</u>				
				(26) <u>DESIGNATED PAYING OFFICE</u>				
				(27) <u>ADDRESS OF DESIGNATED PAYING OFFICE</u>				

DD FORM 1513

PREVIOUS EDITIONS MAY BE USED
UNTIL EXHAUSTED.

PAGE 1 of 1 PAGES

Figure 3-3. United States Department of Defense Offer and Acceptance.

GENERAL CONDITIONS

Annex A

A. THE GOVERNMENT OF THE UNITED STATES.

1. Agrees to furnish such items from its Department of Defense (hereinafter referred to as "DDO") stocks and resources, or to procure them under terms and conditions, consistent with DDO regulations and procedures, above procuring for the Purchaser, the UOQ shall, in general, employ the same contract clauses, the same contract administration, and the same inspection procedures as would be used in procuring for itself, except as otherwise requested by the Purchaser and is agreed to by the DDO. Unless the Purchaser has requested that a sole source contractor be designated, and the Letter of Offer and Acceptance reflects acceptance of such designation by the DDO, the Purchaser understands that selection of the contractor source to fill the requirement is solely the responsibility of the Government of the United States (hereinafter referred to as "USG"). Further, the Purchaser agrees that the United States DDO is solely responsible for supplying the terms and conditions of all contracts necessary to fulfill the requirements in the Letter of Offer.

2. Advises that when the DDO procures for itself, its contracts include without exception, with the exception of those, however, the USG shall, upon request, to items being procured, and upon timely written attempt to the extent possible to release any portion or of special contract provisions and a contract entered by the Purchaser. The USG further agrees to exercise, upon the Purchaser's request, any rights (including those arising under its contract) the USG has under any contract submitted with the procurement of any items. Any additional cost resulting from exercising special contract provisions or variations, or the exercise of rights under such provisions or variations, or any other rights that the USG may have under its contract, shall be added to the procurement of items, shall be added to the Purchaser.

3. Shall, when the condition is otherwise specified herein to be, "As Is", release its release of all items and defense articles supplied from DDO stocks which are damaged or found to be defective in quantity or performance, when it is established that these deficiencies existed prior to purchase of the item or to be defective in which is such a degree that the item cannot be used at all for the purpose for which they were procured. Damaged or defective items, in the USG and of the Purchaser, shall be returned pursuant to paragraph 8.6 below, shall upon the liability of the USG; however, and the contract terms to be taken.

4. Shall release its items being procured for sale to the Purchaser, the USG agrees to exercise its rights on behalf of the Purchaser pursuant to A.2, above to ensure, to the extent possible, the warranty, replacement or correction of such items found to be defective.

5. In addition, the USG agrees the risk of all items sold to the Purchaser hereunder. The USG, however, makes no warranty other than those specified in this contract, in particular the liability remains from present damages or claims incurred by the use or modification of a Purchaser under the United States of items supplied hereunder.

6. Agrees to deliver and pass title to the items to the Purchaser at the latest point of shipment unless otherwise specified in the Offer and Acceptance. Once shipped to defense articles procured for use by the Purchaser, this will normally be at the manufacturer's loading facilities, and it is to be delivered directly to the Purchaser, this will normally be at the U.S. Army. Shipping will be paid, insured in amounts prepared for this in prior to the time the items are shipped. If "Point of Delivery" is specified otherwise than the latest point of shipment, the supplying Military Department or other Agency will assume responsibility of the items to the authorized delivery point as indicated on the contract and will pass title at the named point of shipment; the USG assumes no liability for damage or loss to the items delivered after shipment of the transportation of warehouse transportation to be continue cargo or by the U.S. Defense Transportation System.

7. Advises that: a. Unless otherwise specified, USG standard terms will be furnished without regard to make or model.

8. The price of items to be procured shall be as their total cost to the USG. Unless otherwise specified, the cost elements of items to be procured, including transportation, payment is include, and delivery expenses, including any expenses noted in contract estimate data. The USG will use its best efforts to advise the Purchaser of its authorized representations by DD Form 151-2:

- (1) if any identifiable cost increase that might result in a decrease in the "Estimated Total Costs" in excess of 10 percent;
- (2) of any changes in the payment schedule(s); and
- (3) of any delays which might significantly affect the estimated delivery dates;

and its failure to advise of the above shall not affect the Purchaser's obligation under paragraphs 8.1 and 8.3 below.

9. The USG will, however, use its best efforts to deliver items or render services for the estimate and at the times desired.

10. Under unusual and compelling circumstances when the national interest of the United States so requires, the USG reserves the right to cancel or suspend all or part of this Offer and Acceptance at any time prior to the delivery of defense articles or performance of services (including training). The USG shall be responsible for all termination costs of its suppliers resulting from cancellations or suspensions under this paragraph.

11. Shall refund to the Purchaser any payments received hereunder prior to the date of the final total cost of delivery, and performance of this Offer and Acceptance, and are not required to cover advances in other open Offers and Acceptances of the Purchaser.

12. Advises that personnel performing defense services provided under this Offer and Acceptance will not perform any duties of a combatant nature, including any duties relating to training, advising, or otherwise providing assistance regarding combat activities, outside the United States in connection with the performance of these defense services.

13. Advises that in the event of no employment of United States personnel for the performance of this Offer and Acceptance, the USG will not take into account race, religion, national origin or sex.

14. Advises that, notwithstanding Purchaser's agreement to pay interest on any net amount by which Purchaser may be in arrears on payments provided for in paragraph 8.4, herein, USG funds will not be used for disbursements by DDO to its contractors in the event of any such arrears on payments. Accordingly, failure by the Purchaser to make timely payments in the amounts due may result in delays in contract performance by DDO contractors, claims by contractors for increased costs (including the above mentioned interest costs), claims by contractors for reimbursement liability for breach of contract or termination of contracts by the USG under this or other open Offers and Acceptances of the Purchaser as Purchaser's arrears.

B. THE PURCHASER:

1. Shall pay to the USG the total cost to the USG of the items, even if the final total cost exceeds the amounts estimated in this Offer and Acceptance.

2. Shall make payment(s) for the items by check(s) or by wire transfer payable to United States dollars to the Treasurer of the United States.

3. Shall, if "Terms" specify "cash with acceptance", furnished with this Offer and Acceptance a check or wire transfer in the full amount of items in the estimated total cost, and agrees to make such additional payment(s) as may be specified upon notification of cost overruns and request(s) for funds to cover such overruns.

4. Agrees if "Terms" specify payment to be "cash prior to delivery" to pay to the USG such amounts of such items as may be specified from time to time by the USG (including any interest deposit set forth under "Terms") in order to meet payment requirements for articles or services to be furnished from the resources of the US Department of Defense. USG requires for funds may be based on estimated requirements to cover forecasted amounts of articles or times to provide defense services. If a USG policy is to advance funds 60 days in advance of the time DDO pays such delivery or service such expense on behalf of the Purchaser.

5. Agrees, if "Terms" specify payment by "dependable underwriting" to pay to the USG such amounts at such times as may be specified from time to time by the USG (including any interest deposit set forth under "Terms") in order to meet payments required by contracts under which items are being procured, and any damages and costs that may occur, or have occurred, from termination of contracts by the USG because of Purchaser's cancellations of this Offer and Acceptance under paragraph 8.7, herein. USG requires for funds not be based upon estimated requirements for advance and progress payments to suppliers, estimated termination liability, delivery forecasts or evidence of constructive delivery, as the case may be, to USG policy to advance such funds 60 days in advance of the time USG makes payments on behalf of the Purchaser.

6. Agrees, if "Terms" specify "payment on delivery" that bills may be based on the details of delivery of the defense articles or rendering of the defense services, or upon forecasts of the details thereof.

7. Agrees, if "Terms" specify payment under a Credit Agreement between the Purchaser and DDO, to pay to the USG on a "dependable underwriting" basis, as hereinafter with 8.4, above, such sums as may be in arrears of the amount funded by the Credit Agreement.

8. Agrees, that requests for funds or billings under paragraphs 8.4, through 8, above are due and payable in full on presentation, or, if a payment date is specified in the request for funds or bill, on the payment date so specified, even if such payment date is not in accord with the regular payment schedule, if any, contained in the Offer and Acceptance, without affecting Purchaser's obligation to make such payment(s) when due, notwithstanding constructive advance and progress payments, estimated termination liability or evidence of constructive delivery or shipment or receipt of request for funds or bills and be made available to the Purchaser by DDO upon request. When appropriate, Purchaser will request adjustment of any questionable billed items by subsequent submission of required documentary records in accordance with paragraph 8.6, herein.

9. Agrees to pay interest on any net amount by which it is in arrears on payments, determined by considering collectively all of its Purchaser's open Offers and Acceptances with the DDO, because such be calculated on a daily basis. The principal amount of the arrears shall be computed on the excess of cumulative financial requirements of the Purchaser over total cumulative payments after quarterly billing payment due dates. The rate of interest paid shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market rate on outstanding short-term obligations of the USG as of the last day of the month preceding the due date and shall be computed from the date of net arrearage.

6. Shall designate the Procuring Agency and responsible Paying Office and address thereof to which the USG shall submit requests for funds and bills under this Offer and Acceptance.
7. Shall furnish shipping instructions for the items with the acceptance of this Offer and Acceptance. Such instructions shall include (a) Offer/Release Code, (b) Freight Insurance (Line), and (c) the Mode of Carriage, as appropriate.
8. Shall be responsible for obtaining the appropriate insurance coverage and customs clearance, and, except for items reported by the USG, appropriate export license.
9. Shall accept title to the defense articles at the initial point of shipment (see A.4, above). Purchase of or responsibility for interest in ownership and retention of items against destruction, theft or damage shall remain with the Purchaser until the date of payment of the bill of lading. For the purpose of this paragraph, the USG shall not be responsible for items lost, damaged, destroyed, or otherwise, unless the items are identified as such in the bill of lading, and the USG shall not be responsible for items lost, damaged, destroyed, or otherwise, unless the items are identified as such in the bill of lading, and the USG shall not be responsible for items lost, damaged, destroyed, or otherwise, unless the items are identified as such in the bill of lading.
10. May accept this Offer and Acceptance with respect to one or all of the items listed in this Offer and Acceptance as one item prior to the delivery of defense articles or performance of services (including training). It shall be responsible for all costs resulting from such action under this paragraph.
11. Shall, except as may be otherwise specifically agreed in writing, use the items and have under their control:
12. For the purposes specified in the Mutual Defense Assistance Agreement, if any, between the USG and the Purchaser;
13. For the purposes specified in any bilateral or regional defense treaty to which the USG and the Purchaser are both parties, if subparagraph a. of this paragraph is inapplicable;
14. For national security, national self-defense, and for other reasons, if subparagraph a. and b. of this paragraph are inapplicable.
15. Shall not transfer title to, nor possession of, the defense articles, components and associated technical material related training or other defense services (including any plans, specifications or information) furnished under this Offer and Acceptance to anyone and so reflect, substance or spirit of the Purchaser (including transportation services), and shall not use or permit them to be used for purposes other than those authorized by the USG, except the written consent of the USG. In the event that the USG, in its discretion, places, specifications, or information furnished in connection with this Offer and Acceptance may be classified by the USG for security purposes, the Purchaser shall maintain a similar classification and employ all measures necessary to protect such security, requirements to those contained by the USG, throughout the period during which the USG may maintain such classification. The USG will not demand efforts in this regard from the Purchaser if the classification is changed. The Purchaser will ensure, by all means available to it, respect for proprietary rights in any defense article and any plans, specifications, or information furnished, whether patented or not.
- C. INDEMNIFICATION AND ASSUMPTION OF RISKS:**
1. It is understood by the Purchaser that the USG is procuring and forwarding the items specified in this Offer and Acceptance under an assumed basis for the benefit of the Purchaser. The Purchaser therefore undertakes, subject to A.2, above, to indemnify and hold the USG, its agents, officers, and employees harmless from any and all loss or liability (whether or not a contract) which might arise in connection with this Offer and Acceptance because of: (a) injury to or death of personnel of the Purchaser or third parties; (b) damage to or destruction of (A) property of the DOD furnished to the Purchaser or suppliers specifically to implement this Offer and Acceptance, (B) property of the Purchaser (including the items ordered by the Purchaser pursuant to this Offer and Acceptance, before or after passage of title to the Purchaser), or (C) property of third parties; or (d) personal injury, death, or property damage.
2. Subject to any terms, special conditions, warranties, obtained from the Purchaser in accordance with A.2, above, the Purchaser agrees to return the components and subcomponents of the USG from liabilities for, and will assume the risk of, loss or damage to: (a) the Purchaser's property (including the items ordered pursuant to this Offer and Acceptance, before or after passage of title to the Purchaser) and (b) property of the USG furnished to suppliers specifically to implement this Offer and Acceptance, in the same extent that the USG would assume for its property if it were procuring for itself the same or items ordered pursuant to this Offer and Acceptance.
- D. ACCEPTANCE:**
1. To accept this Offer and Acceptance, the Purchaser will not later than the expiration date of the Offer and Acceptance, set out forth herein, return three copies properly signed to the nearest USG office (including consular designated herein, as designated by each initial payment or other payment) to which the items are to be returned. In addition, the Purchaser will immediately return three copies properly signed to the U.S. Military Department or Defense Agency making the offer, when property accepted and returned as specified herein, the acceptance of this Offer and Acceptance shall be binding upon the USG and the Purchaser.
2. It is understood that implementation of the Offer and Acceptance cannot proceed without a proper agreement, before or during, with Terms and Conditions required for acceptance, as, for example, delay in submission of any required initial deposit in payment of full estimated cost, as the case may be, may require revision or release of the Offer and Acceptance.
3. Unless a written request for extension is made by the Purchaser and granted in writing by an authorized representative of the appropriate U.S. Military Department or Defense Agency, this Offer and Acceptance shall terminate on the expiration date set forth herein.
- E. ENCLOSURES:**
- Enclosures attached hereto are, by this reference, incorporated hereto and are made a part hereof as though set forth in full.
- F. PUBLIC INSPECTION:**
- This Offer and Acceptance will be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

EXPLANATORY NOTES

1. The term of reference numbers appearing in the "ITEM OR RFP, NO." column were not recommended with reference used in Paragraphs 1 through 10, above. However, the number, together with the same identifies items should always be used as a reference in future correspondence.
2. Availability of items is based on the estimated number of items required in complete delivery of the items in accordance with the terms of delivery after receipt of acceptance of this Offer pursuant to Section 11, of the Conditions, and the completion of appropriate financial arrangements. Planned deliveries are shown by quantity and location for each increment, where applicable. Items for which delivery is made in increments are shown in columns headed "Item Description" as items to be included in the appropriate and item price in increments.
3. The planned source of supply for each item is expressed in the following codes:
- | | | |
|---|-----|---|
| S | (*) | Supplier Stocks |
| P | (*) | Procurement |
| R | (*) | Rebuild/Repair/Modification |
| X | (*) | Stock and procurement, e.g., initial repair parts |
| E | (*) | "Excess" stock items in long supply or excess |
- *Availability is stated in months.
4. Conditions of the defense articles shown in the "AVAILABILITY AND REMARKS" column is explained in the following codes:
- | | | |
|----|---|--|
| A1 | - | Items to be provided in existing condition without repair, restoration or rehabilitation which may be required. Condition indicated in item description. |
| M | - | Articles of metal condition (new, remanufactured, and rehabilitated) may be exchanged when required. Remarks: repair parts, condition. |
| B | - | Non-metallic defense articles. |
| O | - | Obsolescence of items and/or items in an "AS IS" condition for which repair parts support may not be available from INUL. |
| S | - | Substitute. Suitable substitutes may be accepted for unavailable defense articles when necessary during the life of the contract. |
| U | - | Rebuilt or rehabilitated defense articles requiring unusual expenditure include a production, including all modification, test, design and engineering change orders as applied to such defense articles. Items under this defense article should not be considered as having had total replacement of major parts and/or assemblies. (Note: parts and components are meeting US Armed Forces serviceability standards and standards will have been replaced, in all instances such defense articles will meet US Armed Forces standards of serviceability). |
5. Training notes:
- | | | |
|----|---|---|
| AP | - | Annual Training Program. |
| SP | - | Special Training designed to support purchase of US equipment. |
| TC | - | The initial down and continuing a commitment to provide US training. |
| SC | - | US Training (consequence) being addressed in separate Offer and Acceptance. |
| NR | - | No US Training is required in support of the purchase. |
6. For meaning of delivery codes, see Military Assistance Program Address Directory (MAPAD).
7. The use of Offer/Release Codes "Y" and "Z" will incur a storage fee of .125% per month for shipment delays in excess of 15 days.

- Block (10) Typed Name and Title

Type the name and title of the DSAA Comptroller who signed Block (9).

- Block (11) DSAA Accounting Activity

The following address should be placed in this block. AFAFC-SACC, Lowry AFB, Denver, Colorado 80279.

- Block (12) Item or Reference No.

For programs which involve more than one item, enter a separate number for each item.

- Block (13) Item Description

Insert the Generic Code and MASL line data for each item. In addition the National Stock Number (NSN) and/or part number, as appropriate, and a complete description of the material/services should be entered.

- Blocks (14 through 17)

Quantity, Unit of issue, unit cost and total cost are self-explanatory.

- Block (18) Availability and Remarks

Enter one or more codes from paragraph 3, 4, and 5 of the Explanatory Notes on page 3 of the DD Form 1513. Also enter specific 20) delivery dates, as applicable.

- Block (19) and (20)

Offer Release Code and Delivery Term code

- Block (21) Estimated Cost

Enter the value in whole dollars but they should not include any administrative or accessorial charges.

- Block (22) Estimated Packing, Crating and Handling Cost

Enter the value in whole dollars based on the prescribed percentages as set forth in DODI 2140.1, or actual costs, if appropriate. Do not show the percentage rate used in determining the cost contained in this block.

- Block (23) Estimated General Administrative Costs.

Enter like Block (22).

- Block (24) Estimated charges for supply support arrangement.

Enter like Block (22).

- Block (25) Other estimated costs.

Enter like Block (22). If there are several specific costs, identify each in Block 13.

- Block (26) Estimated total costs.

Enter the costs in whole dollars (total of Blocks (21) through (25)).

- Block (27) Terms.

Enter appropriate terms of sale in accordance with the guidance (See Chapter G, Part 3 of the DSAA Military Assistance and Sales Manual).

- Block (28) Amount of initial deposit.

If the terms of this LOA an initial deposit is required and has been stated in Block (27), the dollar amount in whole dollars of this initial deposit should be entered.

- Block (29) through (37) These blocks should be filled in by the authorized representative of the purchasing government.

- The name and telephone number of the action officer responsible for the preparation of the DD Form 1513 should appear at the bottom of all copies submitted to DSAA for countersignature, excluding the original.

From DD Form 1513, if the purchaser checks the quantity, item description etc. and he does not agree he can ask the U.S. Government to change the details that he wants. DD Form 1513 will be contract when the purchaser signed the signature in Block 31, otherwise it would not be a contract.

2. DD Form 1513-1

Purpose: Circumstances frequently require that changes be made to an executed DD Form 1513. There are times when U.S. interests are best served by processing amendments to cover small changes in scope, since administrative reasons sometimes preclude the preparation of new LOA's, or make it difficult and costly to do so. The amendment to a LOA, DD Form 1513-1, should be used to meet only minimum essential administrative needs. Minor changes in scope such as changes or requirements within FMS training cases, increases in time of performance minor increases in quantity of a definitive quantity case.

Instruction for preparing the United States Department of Defense Amendment to Offer and Acceptance (DD Form 1513-1).

For the various Blocks it is nearly the same as DD Form 1513 (See Figure 3-4) except sequent number of block and increasing same block such as:

- Block (3) Amendment No.

Enter a consecutive "numerical" amendment number. Do not reuse a number once it has been assigned to an Offer to Amend.

- Block (12) Purpose of the Amendment

Describe the purpose of the amendment.

- Block (14) through (19)

Enter complete description of amendment action. Describe whether the action is an addition, or deletion.

Instructions for preparing the United States Department of Defense.

3. DD Form 1513-2

Purpose: The DD Form 1513-1 should be used only if the revision requires purchaser acceptance before implementation. If the revision is a unilateral change on the part of the USG to the terms and conditions of the LOA, which does not require purchase acceptance, the DD Form 1513-2, Notice of Modification of Offer and Acceptance, should be provided to the purchaser.

DD Form 1513-2 is utilized to record modifications to an existing LOA, e.g. decreases in scope, and changes not

DD FORM 1513-1
1 MAR 19

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affecting the scope of an LOA. Examples of such changes are price increases, deletions of items or decrease in the quantities of items to be sold, changes or extensions exceeding 90 days of delivering commitment date.

For Form DD 1513-2, see Figure 3-5.

Some Block that should be noted.

- Block (3) Notice No.

Use Arabic numbers in consecutive sequence. Do not mix Notice Numbers with Amendment Numbers.

- Block (7) Department

Enter the appropriate U.S. Military Department or Defense Agency.

- Block (22) through (25) Acknowledgement of Receipt

An Authorized official of the foreign customer should sign and forward the document to the Military Department of Defense Agency concerned to ensure that the Notice of Modification has been received.

Processing Letters of Offer for \$50 million or more or for major defense equipment of \$14 million or more. Section 36 of the Arms Export Control Act (AECA), as amended, requires that Congress must be provided with notification of all Letters of Offer to sell any defense articles or services for \$50 million or more, or any major defense equipment of \$14 million or more, before such Letter of Offer is issued (see Figure 3-6).

UNITED STATES DEPARTMENT OF DEFENSE NOTICE OF MODIFICATION OF OFFER AND ACCEPTANCE				(11) PURCHASER (Name and Address (ZIP Code))		
(12) PURCHASER'S REFERENCE		(13) NOTICE NO.		(14) CASE IDENTIFIER		
NOTICE OF MODIFICATION						
<p>Notwithstanding to the Arms Export Control Act, the Government of the United States (USG) hereby certifies the purchase of modification of the above designated arms. All other terms and conditions of the original arms remain unchanged.</p>						
<p>(15) <u>SIGNATURE (US Dept./Agency Authorized Representative)</u></p> <p>(16) <u>TYPED NAME AND TITLE</u></p> <p>(17) <u>ADDRESS:</u></p> <p>(18) <u>DATE:</u></p>				<p>(19) <u>COUNTERSIGNATURE (Officer of the Competitor, DPA/AN/DA)</u></p> <p>(20) <u>TYPED NAME AND TITLE</u></p>		
(21) DESCRIPTION OF AND REASONING FOR MODIFICATION						
ITEM OR REF NO. (122)	ITEM DESCRIPTION (Including Serial Number, if applicable) (123)	QUANTITY (124)	UNIT OF MEASURE (125)	ESTIMATED		AVAILABILITY AND REMARKS (126)
				UNIT COST (127)	TOTAL COST (128)	
RECAPITULATION OF TOTAL DD FORM 1513 OF (129)				IN PREVIOUS COST		AS REVISED COST
(129) ESTIMATED COST		0		0		
(130) ESTIMATED PACKING, CRATING AND HANDLING COSTS		0		0		
(131) ESTIMATED GENERAL ADMINISTRATIVE COSTS		0		0		
(132) ESTIMATED CHARGES FOR SUPPLY SUPPORT ARRANGEMENT		0		0		
(133) OTHER ESTIMATED COSTS (Specify)		0		0		
(134) ESTIMATED TOTAL COSTS		0		0		
ACKNOWLEDGEMENT OF RECEIPT						
<p>(135) I am a duly authorized representative of the Government of _____ and have received of said Government authority to accept of this notice of modification. (136) Date _____ of _____ 19____</p>						
(137) TYPED NAME AND TITLE				(138) SIGNATURE		

DD FORM 1513-2

PREVIOUS EDITIONS MAY BE USED
UNTIL EXHAUSTED

PAGE 1 OF PAGES

Figure 3-5. United States Department of Defense Notice of Modification of Offer and Acceptance.

(22) CONTINUATION

REMARKS

1. DD Form 1513-2 is utilized to record modifications to an existing DD Form 1513 and any related amendments thereto, but only for those modifications which do not constitute a change in scope. Modifications appropriate for DD Form 1513-2 include all notifications of price increases and related changes in payment schedules.

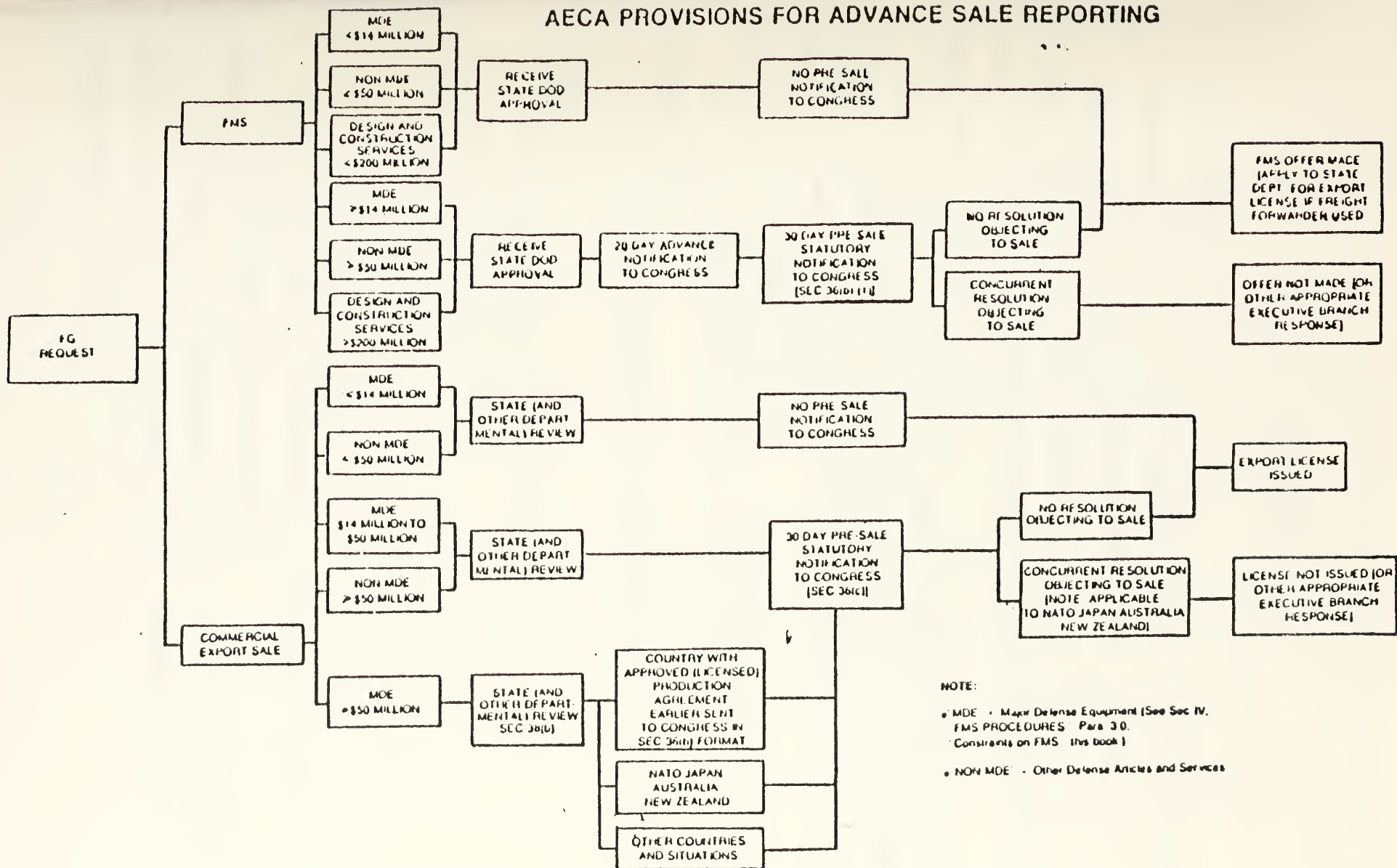
2. Changes in scope of a DD Form 1513 require a formal amendment, utilizing DD Form 1513-1. Such changes are those which affect the type or number of major items and/or services to be provided or which significantly alter system configuration or functions. Such changes must be made by utilization of DD Form 1513-1.

3. DD Form 1513-2 does not require acceptance by the recipient country (customer) but merely acknowledgement of receipt. (DD Form 1513-1 does require acceptance).

4. All terms and conditions of an existing DD Form 1513 and any related amendments thereto not specifically noted to be modified by a DD Form 1513-2 are understood to remain unchanged and in effect.

Figure 3-5. (Cont'd).

AECA PROVISIONS FOR ADVANCE SALE REPORTING



NOTE:

• MDE - Major Defense Equipment (See Sec IV, FMS PROCEDURES Para 30, Constraints on FMS this book)

• NON MDE - Other Defense Articles and Services

Figure 3-6. AECA Provisions for Advance Sale Reporting

IV. PRICING

A. FMS PRICING

Under FMS, there are two separate kinds of pricing actions ... one relating to the entering of estimated prices on the DD Form 1513 and the other relating to the pricing of DOD contracts with private vendors to accomplish the requirements specified on DD Form 1513.

The DD Form 1513 is used to submit prices to the purchaser country unless a waiver is obtained from the Director, DSAA. When a waiver is granted, the same elements of cost as provided for the DD Form 1513 are used.

The following elements must be considered when developing an FMS price.

- Cost of the item/service (purchase price, inventory value, etc.)
- Nonrecurring RDT&E and Production Costs
- Recurring Support Costs
- Asset Use Charge
- Accessorial Costs
- Administrative Charge

FMS pricing can be combined into two major categories: Base Price and Authorized Surcharges.

- The Base Price generally refers to the cost of the item or service, i.e. contract price, inventory price, replacement price, etc.

- The Authorized Surcharge, on the other hand, relates to the application of a charge. (Often on a percentage or pro-rate basis).

For the various prices above I would like to describe some of them here:

B. SOME OF THE FMS PRICES

1. Nonrecurring Costs

An objective for this cost is to ensure a FMS customer pays a fair price for the value of his nonrecurring investment in the manufacture of the products and/or development of the related technology. In accordance with DOD 2140.2, recoupment of these costs is required in those instances where the investment costs exceed the following dollar thresholds.

- With respect to products and technology ... non-recurring research, development, test and evaluation (RDT&E) costs of \$5 million or more to develop related products and technology.

- With respect to products ... nonrecurring production costs of \$5 million or more.

- With respect to products and technology ... special customer nonrecurring costs under a Foreign Military Sales ... of \$5 million or more.

2. Asset Use

A charge for use of DOD facilities and equipment is added to all order which require use of DOD assets other than

facilities for which appropriate rental charges clause of the Defense Acquisition Regulation (DAR).

Asset use charges have been developed to be applied as a percent of Direct Costs. Direct Costs include:

- Contractor Billings for work performed at government owned/contractor (GOCO) facility when Use and Charges Clause does not apply.

- Repair and modification of FMS owned material in depots.

- Training at DOD installations (entire costs).

- Use of DOD ships/aircraft for FMS transportation.

- Contractor billings for work performed at his facility, utilizing government assets, when Use and Charges Clause does not apply (rent-free clause).

3. Accessorial Costs

Accessorial costs represent expenses incident to issues, sales, and transfers of material that are not included in the standard price or contract cost of material.

4. Packing, Crating, and Handling (PCH)

PCH costs are those costs at DOD facilities for labor, materials, and services to take articles from storage, prepare them for shipment and process the documentation. PCH costs are included in all sales from stock (except when sent directly from the manufacturer).

Standard PCH rates are:

- 3.5% of the selling price for materials with unit

price under \$50,000.00 plus

- 1.0% of the selling price over \$50,000.00

5. Transportation

Transportation costs are the costs of DOD provided or financed inland transportation (land, air, inland and coastwise waterways) in the U.S. and outside the U.S. and overseas transportation by vessel or air. (Includes parcel post via surface or air).

6. Administrative Charges

Administrative charges are added to all FMS cases to recover express of sales negotiations, case implementation, procurement, administrative of Reports of Discrepancy, correcting deficiencies or damage of items sold, contract administration, program control, computer programming, accounting and budgeting and administration of FMS at command headquarters and higher levels.

In the event that the FMS purchaser cancels an entire FMS case (LOA) prior to the delivery of all articles and services involved, the following guidance applies.

- On FMS cases involving standard procurement the administrative charge will be three percent of the actual value at closure or one percent of the implemented program value, whichever is greater.

- On FMS cases involving non-standard procurement, the administrative charge will be five percent of the actual value at closure or one percent of the implemented program value, whichever is greater.

- On Blanket Order FMS cases or FMSO 2 cases, the administratives charge will be three percent of the actual value at case closure. This would not apply to FMSO 1 transactions.

V. FMS CASES

A. WHAT ARE THE FMS CASES?

In Thailand we know that Thailand buys materials in terms of FMS cases so it will be appropriate if Thailand officers can understand FMS cases of various types.

Types of Foreign Military Sales Cases: In FMS, a "case" is defined in the Glossary of Terms and Definitions of the Military Assistance and Sales Manual (MASM) as "a contractual sales agreement between the United States Government and an eligible foreign country or international organization documented by a DD Form 1513."

There are a number of ways to distinguish the different types of FMS cases. For example, cases are often referred to as either "reportable" or "not reportable" under Section 36(b) of the Arms Export Control Act, as amended. A "reportable" case is one that meets the criteria for a 30-day final notification to Congress before an offer can be made by the United States Government to a purchaser.

What can be sold under FMS?

Before examining specific types of FMS cases, it is important to distinguish between the varying categories of items and services which can be sold under FMS.

Defense Article (Section 47(3) AECA) the term "defense article" includes

- any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,

- any property, installation, commodity, material, equipment, supply, or goods used for the purpose of making military sales,

- any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and

- any component or part of any article listed in this paragraph, but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954) source material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.

Major Defense Equipment (MDE) in (Section 47(6) AECA) means:

- any item of significant combat equipment on the United States Munitions List having a non-recurring research and development cost of more than \$50,000,000 or a total production cost of more than \$200,000,000.

Defense Service (Section 47(4), AECA) defined it to include:

- any service, test, inspection, repair, training, publication, technical or other assistance, or defense information used for the purposes of making military sales.

Defense Information Section 644(e) of the Foreign Assistance Act of 1961, as amended, defines "defense information" as including:

- any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but shall not include Restricted Data as defined by the Atomic Energy Act of 1954, as amended, and data removed from the Restricted Data category under Section 142d of that Act.

Training. Section 47(5), AECA, defines "training" as including:

- formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces.

B. CATEGORIES OF STANDARD FMS CASES

1. Blanket Order

Definition: These types of cases are commonly called "Blanket Open End" by the U.S. Army, "Direct Requisitioning Procedures/Open End Requisitioning or Pull Requisitioning" by the U.S. Navy and "Blanket Order/Annual Requisitioning" by the U.S. Air Force.

A blanket order case is an agreement between a purchaser and the United States Government for a specific category of items or services (including training) with no definitive listing of items or quantities. The DD 1513 specifies a dollar ceiling against which orders may be placed by the purchaser throughout the validity period ... normally 12 months (see Figure 5-1 for an example of a Blanket Order Case).

Applicability. The types of material, services or training that normally are processed as blanket order-cases are as follows: [Ref. 2: p. 12-7]

- Spares and Repair Parts.

This category is opened for follow-on support of a major item or weapon system after an initial support period.

- Publication

- Support Equipment

- Minor Modifications/Alterations

Performed at United States Installation.

These changes do not require more than two manhours to accomplish.

- Technical Assistance Services

- Training

- Film

- Repairables

BLANKET ORDER CASE

[illegible]

Figure 5-1. Blanket Order Case.

Restrictions to Blanket Order Procedures.

Restrictions include:

- Commercial-type items
- Classified material (except Air Force)
- Classified publication (Navy Only)
- Explosive ordnance items
- Weapons systems, major end items and associated components.
- Initial logistics support normally ordered for concurrent with the weapon system or major end items.
- Lumber
- Nonstandard items (Army Only)
- Medical supplies (drugs)
- Obsolete items (except Air Force)
- Technical Data Packages (TDPS)
- Excess defense articles

The following may be processed as either Defined Order or Blanket Order Case

- Publication
- Training
- Film
- Technical Services
- Spare Parts
- Aeronautical Charts/flips

2. Defined Order

Definition: These cases are often referred to as "Standard Sales" by the U.S. Army, "Defined Line or Push Requisitioning" by the U.S. Navy and "Firm Order" by the U.S. Air Force. (The Management of Security Assistance, p. 12-5).

A defined order case is one in which the items, services or training is specified/quantified by the purchaser in the Letter of Request and subsequently stated explicitly on the Letter of Offer and Acceptance (DD Form 1513). (See Figure 5-2).

A defined order case normally requires a complete price and availability study for separately deliverable line items on the case.

Applicability: The types of material, services or training that normally are processed, as defined order cases, are as follows:

- System/Package Sales. This type of sale includes a major item/weapon system (e.g., tank, ship, airplane, missile, etc.) and any related requirements to adequately activate and operate the item or system during an initial period of time.

- Munitions, Ammunition and other Explosives
- Transportation Services
- Aircraft Ferry
- Class V modification (Air Force)

- Cartridge Activation Devices/Propellant
- Technical Data Packages

A significant feature of either Defined or Blanket order FMS cases is that requisitions are normally filled from DOD stocks only if on-hand assets are above the control or reorder level (in an excess positions). The only time that requisitions will normally be filled below the control level is through a mature Cooperative Logistics Supply Support Arrangement.

Cooperative Logistics Supply Support Arrangement (CLSSA) permits support of the purchaser on an equal basis with United States units having the same Force Activity Designator (FAD). The arrangement provides for the execution of two Foreign Military Sales Orders (FMSOs) covering stockage, consumption, and storage requirements as follows.

- Foreign Military Sales Order (FMSO) 1 case: An Offer and Acceptance covering the estimated dollar value and total initial agreed list of items and quantities to be stocked and maintained on order from procurement for support of the country's U.S.-furnished equipment. The Offer and Acceptance also covers the estimated annual storage costs for the material held in U.S. stocks for the participating country.

- FMS 2 case. A consumption FMSO which encompasses an Offer and Acceptance (DD Form 1513) covering the participating country's estimated withdrawals of material from the

supply system for an agreed period (normally one year). This is an SSA requisition case, undefined as to items and quantities, reflecting in a dollar amount the estimated consumption for the agreed period and funded quarterly.

VI. FINANCIAL

A. FLOW OF FUNDS FOR FMS

We know that FMS, by legal interpretation, is to be a "no profit-no loss" to USG program. Figure 6-1 presents a block diagram "flow of funds for FMS" in the "big picture" relating to funds flow. The following is a brief explanation of how to interpret the flow diagram. (Figure 6-1).

1. Demand for Funds

The funds flow process may be thought to start with United States Government demands placed on the Foreign Purchaser for funds. These demands are generally of two forms:

- The initial deposit requirement which is reflected in DD Form 1513.

- The recurring payment requirements which are contained in DD Form 645.

2. Purchaser Sources for Funds

Based on U.S. Government demands, the Purchaser must respond by providing the funds requested, which the Purchaser has two general sources of financing: cash and United States Government Credit. Purchaser "cash" financing may include: funds appropriated through the Purchaser's parliamentary or legislative process, funds borrowed, or received in the form of a grant, from third countries, or funds borrowed from U.S.

FLOW OF FUNDS FOR FMS

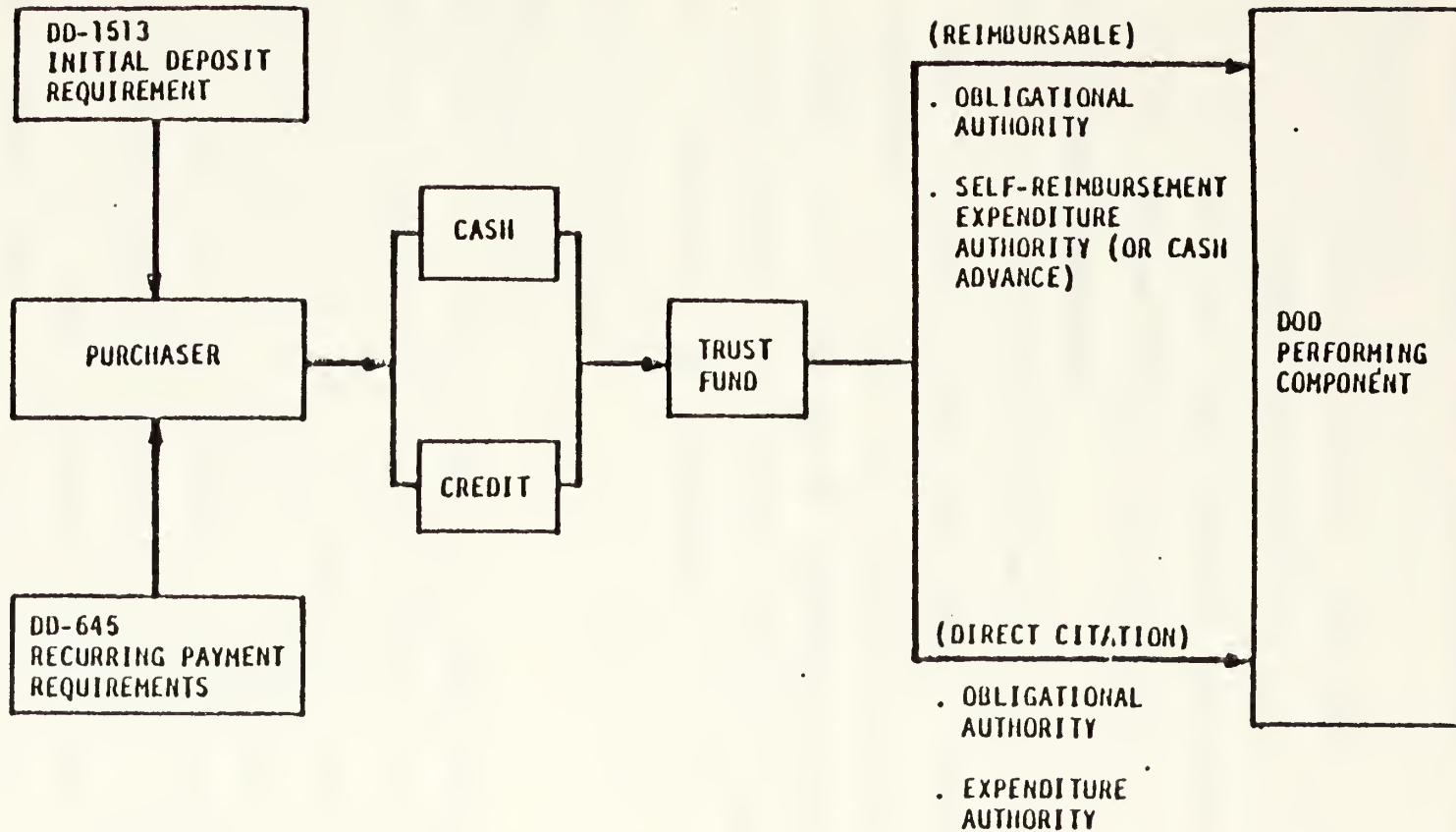


Figure 6-1. Flow of Funds for FMS.

Government. Credit financing, for our purposes, can be of two forms - DOD Direct Credit and DOD Guaranteed Credit.

3. Receipt of Funds

Purchaser payments to the U.S. Government, always in the form of U.S. dollars, are received into the FMS Trust Fund Account, for which the SAAC (Security Assistance Accounting Center) has accounting responsibility.

4. Flow to DOD Components

The DOD component having implementation responsibility for a given FMS case or cases will request obligational (OA) and expenditure authority (EA) from SAAC at the appropriate times. OA and EA may be requested and accounted for by one of two methods: the direct citation of the FMS trust method or the reimbursable method.

B. CONCEPTS AND DEFINITION

1. Trust Fund Account

Definition of a "trust fund" is a fund credited with receipts which are earmarked by law and held in trust, or in a fiduciary capacity by the U.S. Government for use in carrying out specific purposes and programs in accordance with an agreement. The FMS trust fund represent an aggregation of cash received from purchaser countries and international organizations. For the level of detail in the trust fund such as, management, trust fund receipts, etc. which relate to treasury department are beyond the scope of this thesis.

2. Terms of Sales Used

A DD Form 1513 may involve one or more of the following sections of the Arms Export Control Act, as amended.

- Cash with Acceptance

This term applies when the initial case deposit equals the amount to the "Estimated Total Costs" block of the LOA. Paragraph B.3.a. of Annex A to LOA refers to the purchaser's obligation under this term.

- Cash Prior to Delivery

Under this term, the United States Government collects cash in advance of delivery of defense articles and rendering of defense services from DOD resources. Section 21(b) of the Arms Export Control Act applies. Paragraph B.3.b. of Annex A to the LOA refers to the purchaser's obligation under this term.

- Dependable Undertaking

Under this term, the United States Government collects cash in advance of procurement contract payment requirements, Section 22(a) of the Arms Export Control Act applies. Paragraph B.3.C. of Annex A to the LOA refers to the purchaser's obligation under this term. The term dependable undertaking is defined in the DSAA MASM, as follows.

"A firm commitment by the foreign government or international organization to pay the full amount of a contract for the performance of defense services which will

assure the U.S. against any loss on such contract and to make funds available in such amounts and at such times as may be required by the contract, or for any damages and costs that may accrue from the cancellation of such contract, provided that in the judgment of DOD there is sufficient likelihood that the foreign government or international organization will have the economic resources to fulfill the commitment (Sec. 22, AECA)."

- Payment on Delivery

Under this term, the United States Government issues bills to the purchaser at the time of delivery of defense articles or rendering of defense services from DOD resources. The first sentence of Section 21(b) of the Arms Export Control Act applies. Paragraph B.3.d. of Annex A to LOA refers to the purchaser's obligation under this term. The implementing agency may use this term only pursuant to a written statutory determination by the Director, DSAA, that it is in the national interest to do so.

- Loan Agreement

This term applies to payment for a FMS in whole or in part with FMS loan funds, extended or guaranteed by DOD under Section 23 or 24 of the Arms Export Control Act or under other legislation. Paragraph B.3.e. of Annex A to the LOA refers to the purchaser's obligation under this term. The implementing agency will determine initial deposit requirements in the same manner as for cash sales. The purchaser may then request the drawdown of FMS loan funds in payment

of the initial deposit in accordance with the applicable loan agreement. If the sales agreement is to be financed only in part with FMS loan funds, the implementing agency will also cite in the "Terms" block of the LOA the appropriate cash Terms of Sale as indicated above.

VII. THE ROYAL THAI NAVY & FMS

In the Royal Thai Navy, there are departments (e.g. Naval Supply Department, Naval Ordnance Department, Naval Dockyard Department, etc.) which have responsibility for procurement of materials to supply their respective departments and users (such as warships, Marines, etc.). These departments procure materials from both foreign countries and in country. I would like to explain the basic process of procurement of materials from the U.S. by FMS.

A. BASICS OF PROCUREMENT BY FMS

Naval Coordinator Department is a department that has the responsibility for coordination of procurement from the U.S.

- When the departments in the Royal Thai Navy want to procure by FMS, they send the requisition documents (including details as NSN, part number, model number, manufacturer, etc. to the Naval Coordinator Department. DD Form 1348M is the document used for this purpose (Figure 7-1, 7-4).

- The Naval Coordinator Department sends the document (after gathering data by computer) to JUSMAG or the Thai Naval Attache in the U.S. (The conditions are up to the Naval Coordinator Department).

- The JUSMAG or Naval Attache forwards the document to the U.S. for consideration.

Figure 7-1. DD Form 1348M.

ALL OTHER FOREIGN MILITARY SALES

(NON-SCE)

IN-COUNTRY-ORIGINATED

FOREIGN
COUNTRY

FG
REQUEST

OR

U.S.
IN-COUNTRY
TEAM

FG EMBASSY

PURCHASING
MISSION

MILITARY DEPTS

AGENCIES

INFORMATION COPIES

SEC STATE/PM

SEC DEF/DSAA

FG REPRESENTATIVE-ORIGINATED REQUEST

UNITED STATES

FG REQUEST

FG EMBASSY

PURCHASING
MISSION

MILITARY
DEPARTMENTS

AGENCIES

INFORMATION COPIES

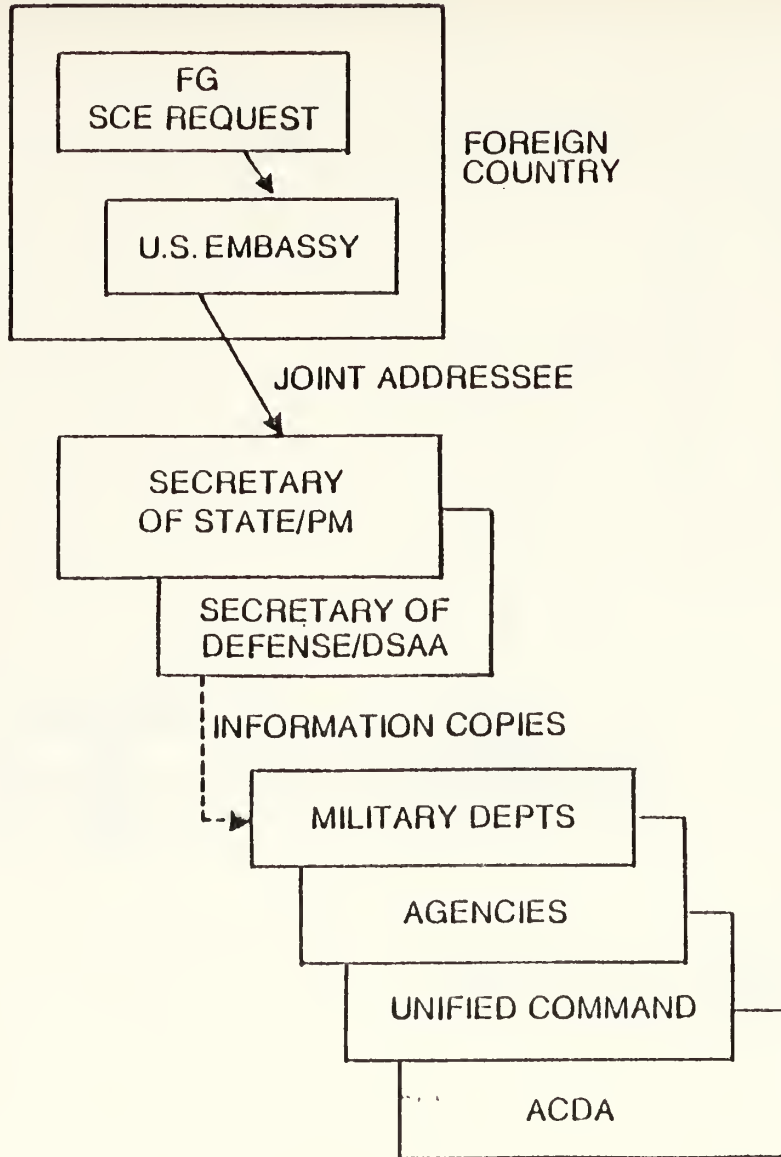
DEPARTMENT OF STATE
BU. POLITICO-MILITARY
AFFAIRS

DEPARTMENT OF
DEFENSE/DSAA

Figure 7-2. All Other Foreign Military Sales.

SIGNIFICANT COMBAT EQUIPMENT (SCE) REQUESTS

IN-COUNTRY-ORIGINATED



FG REPRESENTATIVE-ORIGINATED SCE REQUEST

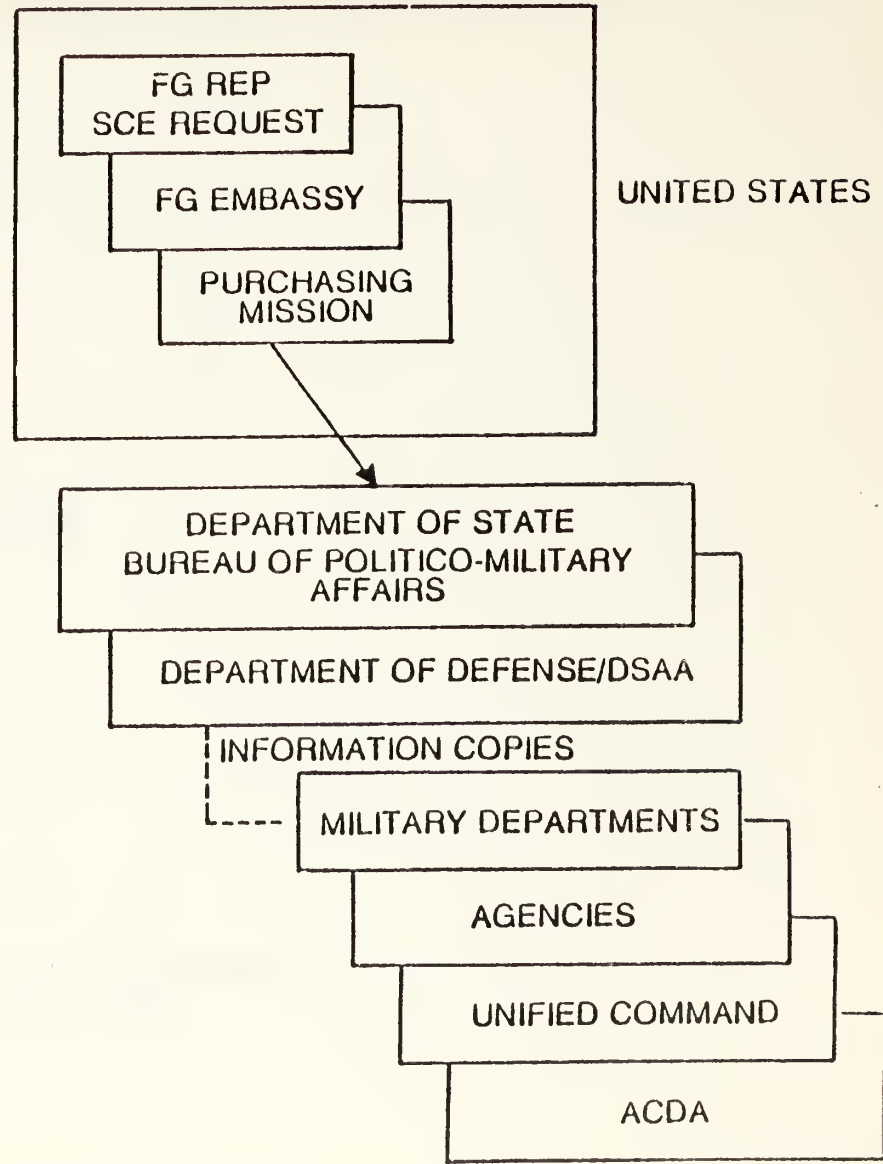


Figure 7-3. Significant Combat Equipment (SCE) Requests.

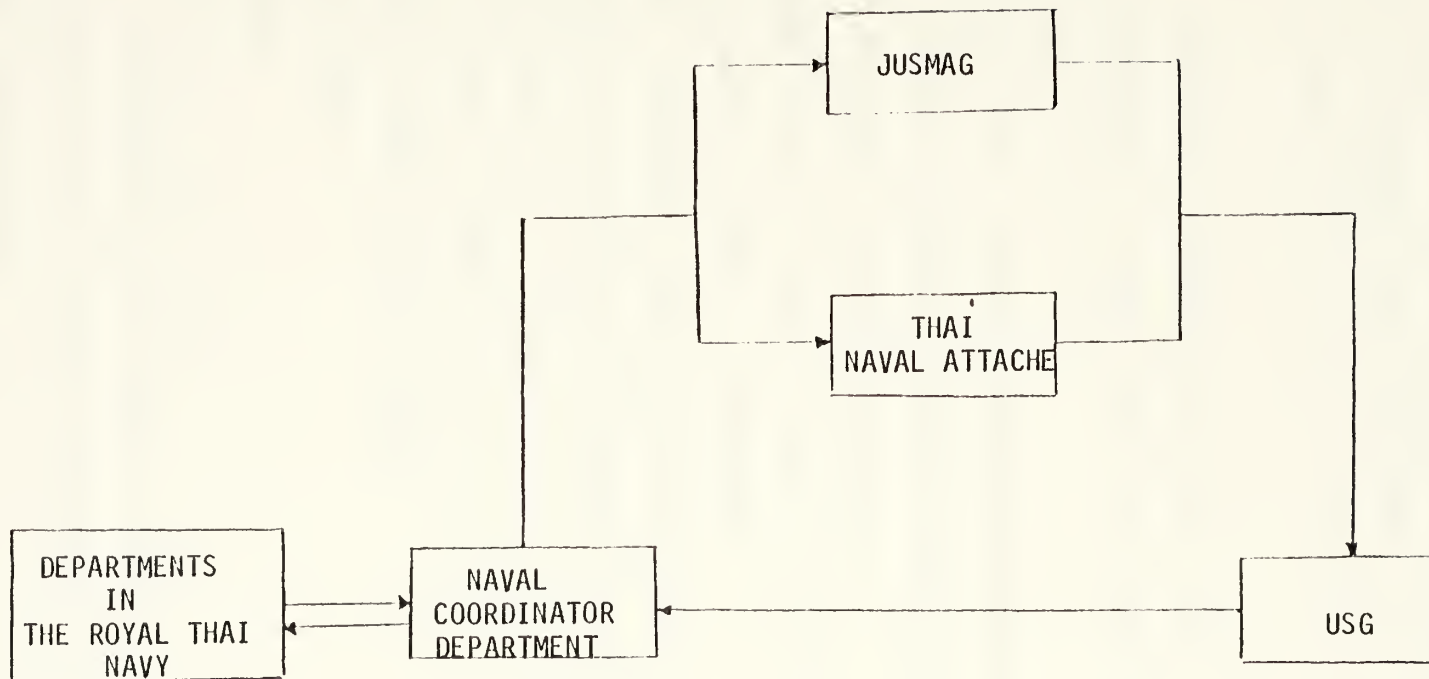


Figure 7-4. The Flow Chart of Procurement by FMS of the Royal Thai Navy.

- When the U.S. receives the data, and after approved and agreement would write the items on a DD 1513 and send the DD 1513 to the Naval Coordinator Department by JUSMAG or Naval Attache.

- After the Royal Thai Navy returns the signed DD 1513, the U.S. would coordinate the procurement with the necessary agencies. (as explained in previous chapters) (Figure 7-2, 7-3).

- Naval Coordinator Department would send the DD 1348 to U.S. (procurement of spare part) until the budget ceiling is reached in each of DD 1513s.

- U.S. would send status periodically to Naval Coordinator Department to report about the items (such as procurement, when would it be sent to Thailand, etc.)

- Materials would be sent to Thailand at Klongtuay harbour or Dongmuang airport in Bangkok.

- The Thai inspector group would check the shipment with the DD Form 1348-1 to ensure that materials were received according to requisition (without opening any boxes). The inspection includes a check of the following:

- . Document number (date, serial)
- . Stock number
- . Quantity
- . Unit price, total price

- After the materials are sent to Thailand, U.S. would send the foreign military sales transaction bills back to the Royal Thai Navy monthly via the Naval Attache or JUSMAG.

- The Royal Thai Navy checks Foreign Military Sales transaction bills in accordance with DD 1348 and DD 1348-1, especially for prices and quantities.

- In case of damage, loss or deviation in sending materials (e.g. quantities were incorrect, prices were incorrect), we could check the DD 1348, DD 1348-1 and foreign military sales transaction bills from the U.S. The Royal Thai Navy could institute a claim, by using DD Form 364 (ROID) for lost or damaged materials of value more than \$25. [Ref. 5: p. 2]

B. DECISION LEVELS

First Naval Commander in Chief of the Royal Thai Navy makes the decision and agreements to procure by FMS when the inventory levels are reduced to a re-order point or when the departments required items are not available in the depot, or when they have new needs.

C. DOCUMENT

Thailand uses the DD Form 1348M (Figure 7-1) for procurement. After approval in the U.S. of the sale and agreement, the LOA is sent to the Royal Thai Navy. The representative of the Royal Thai Navy, who is authorized by the Naval Commander in Chief, would sign the LOA if he approves.

D. BUDGETING

The Royal Thai Naval Financial Department would provide the budget in dollars, for procurement by FMS, with the agreement by the Naval Commander in Chief for each of the various fiscal years.

E. PROBLEMS

Problems in procurement by FMS between U.S. Government and Thailand Government:

Although the transactions by FMS between U.S. Government and Thailand Government have continued over several years, there still are many problems. These problems are as follows: [Ref. 6: p. 3]

1. U.S. Side

- Requests for LOAs to open cases from the U.S. take a long time. Some cases take 6 months for delivery which cause problems in the fiscal budgeting of the Royal Thai Navy.

- Forwarding LOAs from the U.S. Navy to Thailand take a long time. On some cases the LOA has reached its expiration date.

- U.S. Navy does not give the duration of which the materials will be provided to the Royal Thai Navy. This causes logistic problems for the Royal Thai Navy.

- The Royal Thai Navy cannot claim a refund for the cost of material that is lower than \$25 if it was damaged or that is delayed before being received by the Royal Thai Navy.

- It takes a long time to receive FMS materials when compared to procurement from direct commercial sales from U.S. companies.

2. Thailand Side

- The Royal Thai Navy does not pay money to U.S. Navy promptly because the Royal Thai Navy has to process requisitions to the Finance Department and to wait to receive money and then buy a draft to send to the U.S. Navy.

- The Royal Thai Navy does not have sufficient experience in following the Status Code which the U.S. Navy sends to the Royal Thai Navy (every 4 months). The Royal Thai Navy does not know the status of items and it makes it difficult to close the cases.

- Because of the FMS case closing problem method (see above), the Royal Thai Navy cannot utilize the money left.

- Some items used in the Royal Thai Navy are obsolete and therefore the U.S. Navy cannot procure them because of technology progress.

F. RECOMMENDATION

Some of the ways to solve the various problems.

- The U.S. should consider extending the expiration date of the LOA because some departments of the Royal Thai Navy may take a long time to process the procurement form. The time that the Royal Thai Navy accepts in the agreement may not be enough.

- JUSMAG should give information about the U.S. inventory when required by the Royal Thai Navy. These reports will help the Royal Thai Navy in ordering obsolete items, etc.

- If the procurement of materials by FMS are increasing, it will be appropriate for the Royal Thai Navy to provide a program manager in U.S.A. (e.g. NAVILCO) to communicate and follow documents, etc.

- The Thai officer should use DSAA Military Assistance And Sales Manual (MASM) published by the Department of Defense to as a basic guide to understand FMS. This manual should be updated periodically (4 months, 6 months, etc.) and the user should assure that he has the latest update to follow.

VIII. SUMMARY

This thesis, concerns FMS in the areas of policy, departments, documents, etc. of the U.S. Government that pertain to the Royal Thai Navy. The content of this report has been achieved through the cooperation of many persons. I hope this report will be basic guide to the Thai officers that have not had experience in procurement by FMS.

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